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PL 102–550 (HR 5334)

October 28, 1992

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

An Act to amend and extend certain laws relating to housing and community development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

<< 42 USCA § 5301 NOTE >>

(a) SHORT TITLE.—This Act may be cited as the “Housing and Community Development Act of 1992”.
(b) TABLE OF CONTENTS.—

<< 5 USCA §§ 3132, 5313 >>

<< 12 USCA §§ 1723g, 1723h, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3616, 3617, 3618, 3619, 3620 >>

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<< 42 USCA §§ 1437w nt, 3616a nt, 4851 nt, 12705a nt, 12870 nt >>

SEC. 2. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect and shall apply upon the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General Provisions

<< 42 USCA § 1437c >>

SEC. 101. LOW–INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) is amended by striking the paragraph designation and all that follows through the end of subparagraph (B) and inserting the following:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $1,977,662,720, of which $20,000,000 shall be available for 15–year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,100,000,000;

"(iv) for assistance under section 8 for property disposition, not more than $93,032,000;

"(v) for assistance under section 8 for loan management, not more than $202,000,000;

"(vi) for extensions of contracts expiring under section 8, not more than $6,746,135,000, which shall be for 5–year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,350,000,000;

"(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $12,767,000; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $300,000,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $2,060,724,554, of which $20,000,000 shall be available for 15–year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,230,200,000;

"(iv) for assistance under section 8 for property disposition, not more than $96,939,344;

"(v) for assistance under section 8 for loan management, not more than $210,484,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,029,472,670, which shall be for 5–year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,406,700,000;

"(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $13,303,214; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $312,600,000.".

<< 42 USCA § 1437a >>

SEC. 102. EXTENSION OF CEILING RENTS.

(a) REMOVAL OF 5–YEAR LIMIT.—Section 3(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)) is amended by striking "for not more than a 5–year period".

(b) EXTENSION OF PREVIOUS CEILING RENTS.—Section 3(a)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(B)) is amended—

(1) by striking the first sentence; and

(2) in the last sentence, by striking "for the 5–year period beginning on such date of enactment" and inserting "without time limitation".

SEC. 103. DEFINITIONS OF INCOME AND ADJUSTED INCOME AND APPLICABILITY TO INDIAN HOUSING PROGRAMS.

(a) IN GENERAL.—

<< 42 USCA § 1437a >>

(1) INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting after "family" the following: "and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))".

(2) ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;";

(B) by striking "and" at the end of subparagraph (E);

(C) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities.".

<< 42 USCA § 1437a NOTE >>

(3) BUDGET COMPLIANCE.—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

<< 42 USCA § 1437aa NOTE >>

(b) APPLICABILITY OF DEFINITIONS TO INDIAN HOUSING.—

(1) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston–Gonzalez National Affordable Housing Act shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston–Gonzalez National Affordable Housing Act.

<< 42 USCA §§ 1437d NOTE, 1437f nt >>

SEC. 104. PUBLIC AND SECTION 8 HOUSING TENANT PREFERENCE RULES.

Not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston–Gonzalez National Affordable Housing Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.

<< 42 USCA § 1437n >>

SEC. 105. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

(a) EXEMPTION FROM WAITING LIST REQUIREMENTS.—Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended—

(1) in the first sentence, by striking the second comma and inserting "and";

(2) in the first sentence, by striking ", and shall" and inserting ". In developing such admission procedures, the Secretary shall"; and

(3) by inserting before the period at the end of the penultimate sentence the following: "; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)".

(b) EXEMPTION FROM ELIGIBILITY RESTRICTIONS.—Section 16(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437n(d)(2)) is amended by inserting before the period ", to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 5(h) of this title.".

<< 42 USCA § 1437u >>

SEC. 106. FAMILY SELF–SUFFICIENCY PROGRAM.

(a) RESERVATION OF OPERATING SUBSIDIES.—The last sentence of section 23(h)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(h)(2)) is amended to read as follows: "Of any amounts appropriated under section 9(c) for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,900,000 is authorized to be used for costs under this paragraph.".

(b) EXCEPTION TO REQUIRED ESTABLISHMENT OF PROGRAM.—Section 23(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)(2)) is amended by striking subparagraphs (A) through (D) and inserting the following:

"(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under the Job Training Partnerships Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.".

(c) NONPARTICIPATION.—Section 23(b) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)) is amended by adding at the end the following new paragraph:

"(4) NONPARTICIPATION.—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.".

(d) CONTRACT OF PARTICIPATION.—Section 23(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(1)) is amended—

(1) in the second sentence, by inserting after "program" the following: ", shall establish specific interim and final goals by which compliance with and performance of the contract may be measured,"; and

(2) by striking the last sentence and inserting the following new sentences: "The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).".

(e) SUPPORTIVE SERVICES.—The first sentence of section 23(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(2)) is amended by striking "to each participating family" the second place it appears.

(f) ESCROW SAVINGS ACCOUNTS.—Section 23(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)(2)) is amended in the last sentence by striking "only after" and all that follows through the end of the sentence and inserting the following: "after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.".

(g) INCENTIVES FOR PARTICIPATION.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)) is amended—

(1) by striking the subsection designation and heading and inserting the following:

"(d) INCENTIVES FOR PARTICIPATION.—"; and

(2) by adding at the end the following new paragraph:

"(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.".

(h) ACTION PLAN.—Section 23(g)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(g)(3)) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting "; and";

(3) by redesignating subparagraphs (D) through (G) (as so amended) as subparagraphs (E) through (H), respectively;

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;"; and

(5) by adding at the end the following new paragraph:

"(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.".

(i) DEFINITIONS.—Section 23(n) of the United States Housing Act of 1937 (42 U.S.C. 1437u(n)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'eligible family' means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program."; and

(3) by adding at the end the following new paragraph:

"(6) The term 'vacant unit' means a dwelling unit that has been vacant for not less than 9 consecutive months.".

(j) INDIAN HOUSING.—Section 23(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(o)(2)) is amended to read as follows:

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING AUTHORITIES.—Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.".

Subtitle B—Public and Indian Housing

SEC. 111. MAJOR RECONSTRUCTION OF OBSOLETE PROJECTS.

<< 42 USCA § 1437c >>

(a) IN GENERAL.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)) is amended to read as follows:

"(2)(A) Notwithstanding any other provision of law, the Secretary may reserve not more than 20 percent of any amounts appropriated for development of public housing in each fiscal year for the substantial redesign, reconstruction, or redevelopment of existing obsolete public housing projects or buildings and for the costs of improving the management and operation of projects undergoing redesign, reconstruction, or redevelopment under this paragraph (to the extent that such improvement is necessary to maintain the physical improvements resulting from such redesign, reconstruction, or redevelopment).

"(B) For purposes of this paragraph, the term 'obsolete public housing project or building' means a public housing project or building (i) having design or marketability problems resulting in vacancy in more than 25 percent of the units, or (ii)(I) for which the costs for redesign, reconstruction, or redevelopment (including any costs for lead-based paint abatement activities) exceed 70 percent of the total development cost limits for new construction of similar units in the area, and (II) which has an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems.

"(C) The Secretary shall allocate amounts reserved under this section to public housing agencies on the basis of a competition among public housing agencies applying for such amounts. The competition shall be based on—

"(i) the management capability of the public housing agency to carry out the redesign, reconstruction, or redevelopment;

"(ii) the expected term of the useful life of the project or building after redesign, reconstruction or redevelopment; and

"(iii) the likelihood of achieving full occupancy within the projects or buildings of the agency that are to be assisted under this paragraph.

"(D) The Secretary shall establish limitations on the total costs of any project or building receiving amounts under this paragraph for redesign, reconstruction, and redevelopment. The cost limitations shall not be related to the total development cost system for new development or to the cost limits for modernization and shall recognize the higher direct costs of such work.

"(E) Assistance may not be provided under this paragraph for any project or building assisted under section 14.

"(F)(i) For each fiscal year for which amounts are reserved or appropriated for the purposes of this paragraph, the Secretary shall establish performance goals to evaluate the effectiveness of the use of such amounts. The goals shall—

"(I) be designed to maximize the effectiveness of the expenditures in a quantifiable manner; and

"(II) describe the number of units to be redesigned, redeveloped, and reconstructed with such amounts and improvements in the management of projects so assisted to be accomplished with such amounts.

"(ii) Not later than 60 days after the end of each such fiscal year, the Secretary shall submit a report to the Congress, which shall describe the performance goals established for the fiscal year, the activities carried out with such amounts, and a statement of whether the performance goals were met. If the performance goals were not met, the report shall contain—

"(I) an explanation of why the goals were not met and a description of any managerial deficiencies or legal problems that contributed to not meeting such goals;

"(II) plans and a schedule for achieving the level of performance under such performance goals;

"(III) recommendations for legislative or regulatory changes necessary to achieve the performance goals or improve performance; and

"(IV) a statement of whether the performance goals established for the fiscal year were impractical or infeasible, and, if so, the factors that contributed and resulted in establishing such impractical or infeasible goals and recommendations of actions to meet such goals, which may include changing the goals or altering or eliminating the program under this paragraph for major reconstruction of projects.".

(b) MODERNIZATION AND DISPOSITION REQUIREMENTS.—

<< 42 USCA § 1437*l* >>

(1) MODERNIZATION.—Section 14(c) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(c)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting "buildings of" after "for"; and

(ii) by striking "which";

(B) in each of paragraphs (1), (2), (3), and (4), by inserting "which projects" after the paragraph designation;

(C) in paragraph (3), by striking "and" at the end;

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) which buildings are not assisted under section 5(j)(2); and".

<< 42 USCA § 1437p >>

(2) DEMOLITION AND DISPOSITION.—Section 18(a) of the United States Housing Act of 1937 (42 U.S.C. 1437q(a)) is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed within the 10–year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of extraordinary changes in the area surrounding the project or other extraordinary circumstances of the project.".

<< 42 USCA § 1437c NOTE >>

(c) REGULATIONS.—The Secretary shall issue regulations necessary to carry out the amendments made by this section as provided under section 191 of this Act.

<< 42 USCA § 1437d >>

SEC. 112. PUBLIC HOUSING TENANT PREFERENCES.

Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by striking "70 percent" and inserting "50 percent".

<< 42 USCA § 1437d >>

SEC. 113. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) INDEPENDENT MANAGEMENT ASSESSMENT.—Section 6(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(2)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) Upon designating a public housing agency as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any review conducted under section 14(p), the Secretary shall provide for an on-site, independent assessment of the management of the agency.

"(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

"(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the 'assessment team') with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies."; and

(3) in subparagraph (C), as so redesignated by paragraph (1)—

(A) by striking "agency setting forth" and inserting the following: "agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team. Such agreement shall set forth"; and

(B) by inserting before the second sentence the following new flush sentence:

"To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency.".

(b) ADDITIONAL STATUTORY REMEDIES.—Section 6(j)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)(A)) is amended—

(1) in clause (i), by inserting after "agents" the first place it appears the following: "(which may be selected by existing tenants through administrative procedures established by the Secretary)";

(2) at the end of clause (ii), by striking "and";

(3) by redesignating clause (iii) as clause (iv);

(4) by inserting after clause (ii) the following new clause:

"(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available under section 14 for the housing; and"; and

(5) by adding at the end the following new flush sentence:

"Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.".

(c) RESOURCES.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.".

(d) ANNUAL REPORTS.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ", including an accounting of the authorized funds that have been expended to support such actions".

(e) APPLICABILITY.—

(1) ASSESSMENT OF RESIDENT MANAGEMENT CORPORATIONS.—Section 6(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(1)) is amended—

(A) in the first sentence, by inserting "and resident management corporations" before the period;

(B) in the third sentence, by inserting "and resident management corporations" after "agencies"; and

(C) in the fourth sentence, by striking "indicators." and inserting "indicators for public housing agencies, to the extent practicable:".

(2) PROCEDURES.—Section 6(j)(2) of the United States Housing Act of 1937, as amended by subsection (a) of this section, is further amended by adding at the end the following new subparagraph:

"(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.".

<< 42 USCA § 1437g >>

SEC. 114. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c)(1) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,282,436,000 for fiscal year 1993 and $2,378,298,312 for fiscal year 1994.

"(2) There are also authorized to be appropriated to provide annual contributions under this section, in addition to amounts under paragraph (1), such sums as may be necessary for each of fiscal years 1993 and 1994, to provide each public housing agency with the difference between (A) the amount provided to the agency from amounts appropriated pursuant to paragraph (1), and (B) all funds for which the agency is eligible under the performance funding system without adjustments for estimated or unrealized savings.

"(3) In addition to amounts under paragraphs (1) and (2), there are authorized to be appropriated for annual contributions under this section to provide for the costs of the adjustments to income and adjusted income under the amendments made by sections 573(b) and (c) of the Cranston–Gonzalez National Affordable Housing Act such sums as may be necessary for fiscal years 1993 and 1994.".

(b) ADJUSTMENT OF PERFORMANCE FUNDING SYSTEM.—Section 9(a)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(A)) is amended by inserting after the period at the end the following new sentence: "Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.".

(c) ENERGY SAVINGS.—Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by inserting before the semicolon at the end the following: ", and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public housing agency for a period not to exceed 6 years".

<< 42 USCA § 1437*l* >>

SEC. 115. PUBLIC HOUSING VACANCY REDUCTION.

(a) FUNDING.—Section 14(p)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437***l***(p)(5)) is amended to read as follows:

"(5)(A) Of any amounts available under this section in each of fiscal years 1993 and 1994 (after amounts are reserved pursuant to subsection (k)(1)), an amount equal to 4 percent of such remaining funds shall be available in each such fiscal year for the purposes under subparagraph (B).

"(B) Of such amounts available under subparagraph (A) in each such fiscal year—

"(i) 20 percent shall be available only for carrying out activities under section 6(j); and

"(ii) 80 percent shall be available for carrying out this subsection.".

(b) SCOPE OF PROGRAM.—Section 14(p)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)(1)) is amended —

(1) by striking "or that" and inserting ", that"; and

(2) by inserting after "6(j)," the following: "or for which a receiver has been appointed pursuant to section 6(j)(3),".

(c) VACANCY REDUCTION ASSISTANCE.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)(4)) is amended—

(1) in subparagraph (B), by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made"; and

(2) in subparagraph (C), by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made".

(d) AVAILABILITY OF ASSISTANCE.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)(4)) is amended by striking the first comma and all that follows through the second comma and inserting ", subject to the availability of amounts under paragraph (6),".

(e) USE OF AMOUNTS FOR ASSESSMENT TEAMS.—Section 14(p)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)(3)) is amended by adding at the end the following new subparagraph:

"(D) The Secretary may use amounts made available under paragraph (6) for any travel and administrative expenses of assessment teams under this paragraph.".

(f) ASSESSMENT TEAM.—The second sentence of section 14(p)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)(3)(A)) is amended—

(1) by striking "and" after "Development" and inserting a comma; and

(2) by striking "who" and inserting "and officials of the public housing agency, all of whom".

(g) RESERVATION OF ANNUAL CONTRIBUTIONS FOR ACTIVITIES UNDER PLAN.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) (as amended by the preceding provisions of this section) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Upon the expiration of the 24–month period beginning upon the receipt of assistance under paragraph (5) by a public housing agency, the Secretary shall, after reviewing the progress made in complying with the plan, reserve from the annual contribution attributable to each unit vacant for the 24–month period an amount determined by the Secretary but not exceeding 80 percent of such contribution. The Secretary may not reserve any amounts under this subparagraph for any vacant dwelling unit that is vacant because of modernization, reconstruction, or lead-based paint reduction activities.

"(B) The Secretary shall deposit any amounts reserved under subparagraph (A) in a separate account established on behalf of the public housing agency, and such amounts shall be available to the agency only for the purpose of carrying out activities in compliance with the vacancy reduction plan of the agency.

"(C) If, after the expiration of the 24–month period beginning upon the reservation under subparagraph (A) of amounts for a public housing agency, the Secretary determines that the agency has not made significant progress to comply with the provisions of the vacancy reduction plan of the agency, the amount remaining in the account for the agency established under subparagraph (B) shall be recaptured by the Secretary.".

(h) TECHNICAL CORRECTIONS.—Section 14(p)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(p)(2)) is amended—

(1) in clause (D), by striking "modernization, reconstruction" and inserting "comprehensive modernization, major reconstruction"; and

(2) in clause (E), by striking "the modernization" and inserting "the comprehensive modernization".

SEC. 116. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

<< 42 USCA § 1437p >>

(a) COORDINATION WITH TENANTS.—Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by inserting "of the project or portion of the project covered by the application" after "tenant cooperative".

(b) REPLACEMENT PLAN.—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)) is amended —

(1) in subparagraph (A)—

(A) in clause (ii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 8 having a term of not less than 5 years";

(B) in clause (iii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years"; and

(C) in clause (v), by inserting before the semicolon the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years";

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon;

(3) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively;

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that (notwithstanding the limitation under section 8(d)(2)(A) on the amount of project-based assistance provided by an agency)—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional public housing dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years;"; and

(5) by adding at the end the following new flush matter: "except that, in any 5–year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.".

(c) SET–ASIDES FOR REPLACEMENT HOUSING.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for assistance under section 8 that is available for families not currently receiving such assistance not more than 10 percent of such budget authority for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.

"(2) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for development of public housing under section 5(a)(2) not more than the lesser of 30 percent of such budget authorization or $150,000,000, for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.".

(d) YOLO COUNTY HOUSING AUTHORITY.—The Secretary of Housing and Urban Development shall approve the application for disposition by the Yolo County Housing Authority (CA30–PO–003 and CA30–PO44–099), provided that the application states that the tenant councils, resident management corporation, and tenant cooperative, if any, shall be given appropriate opportunities to purchase the new replacement units, which shall be available and ready for occupancy before the disposition of the existing subject units. The new units shall be considered public housing for the purposes of the United States Housing Act of 1937 for which the Secretary shall provide annual contributions for operation using any amounts made available under section 9(c).

<< 42 USCA § 1437r >>

SEC. 117. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $4,750,000 for fiscal year 1993 and $4,949,500 for fiscal year 1994.".

<< 42 USCA § 1437s >>

SEC. 118. PUBLIC HOUSING HOMEOWNERSHIP.

(a) HOMEOWNERSHIP ASSISTANCE.—Section 21(a)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such Act" and inserting "the Cranston–Gonzalez National Affordable Housing Act".

(b) CONDITIONS OF PURCHASE.—Section 21(a)(3)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such title" and inserting "the Cranston–Gonzalez National Affordable Housing Act".

<< 42 USCA § 1437t >>

SEC. 119. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

Section 22(k) of the United States Housing Act of 1937 (42 U.S.C. 1437t(k)) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1993 and $26,050,000 for fiscal year 1994.".

<< 42 USCA § 1437v >>

SEC. 120. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

"(a) PROGRAM AUTHORITY.—The Secretary may make—

"(1) planning grants under subsection (c) to enable applicants to develop revitalization programs for severely distressed public housing in accordance with this section; and

"(2) implementation grants under subsection (d) to carry out revitalization programs for severely distressed public housing in accordance with this section.

"(b) DESIGNATION OF ELIGIBLE PROJECTS.—

"(1) IDENTIFICATION.—Not later than 90 days after the date of enactment of the Housing and Community Development Act of 1992, public housing agencies shall identify, in such form and manner as the Secretary may prescribe, any public housing projects that they consider to be severely distressed public housing for purposes of receiving assistance under this section.

"(2) REVIEW BY SECRETARY.—The Secretary shall review the projects identified pursuant to paragraph (1) to ascertain whether the projects are severely distressed housing (as such item is defined in subsection (h)). Not later than 180 days after the date of enactment of this section, the Secretary shall publish a list of those projects that the Secretary determines are severely distressed public housing.

"(3) APPEAL OF SECRETARY'S DETERMINATION.—The Secretary shall establish procedures for public housing agencies to appeal the Secretary's determination that a project identified by a public housing agency is not severely distressed.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary may make planning grants under this subsection to applicants for the purpose of developing revitalization programs for severely distressed public housing under this section.

"(2) AMOUNT.—The amount of a planning grant under this subsection may not exceed $200,000 per project, except that the Secretary may for good cause approve a grant in a higher amount.

"(3) ELIGIBLE ACTIVITIES.—A planning grant may be used for activities to develop revitalization programs for severely distressed public housing, including—

"(A) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;

"(B) providing technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;

"(C) improvements to stabilize the development, including security investments;

"(D) conducting workshops to ascertain the attitudes and concerns of the neighboring community;

"(E) preliminary architectural and engineering work;

"(F) planning for economic development, job training and self-sufficiency activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) designing a suitable replacement housing plan, in situations where partial or total demolition is considered;

"(H) planning for necessary management improvements; and

"(I) preparation of an application for an implementation grant under this section.

"(4) APPLICATIONS.—An application for a planning grant shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(5) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident interest and involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this section in an effective and efficient manner.

"(6) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(d) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Secretary may make implementation grants under this subsection to applicants for the purpose of carrying out revitalization programs for severely distressed public housing under this section.

"(2) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out revitalization programs for severely distressed public housing, including—

"(A) architectural and engineering work;

"(B) the redesign, reconstruction, or redevelopment of the severely distressed public housing development, including the site on which the development is located;

"(C) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this subsection as the Secretary may prescribe;

"(D) any necessary temporary relocation of tenants during the activity specified under subparagraph (B);

"(E) payment of legal fees;

"(F) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) necessary management improvements;

"(H) transitional security activities; and

"(I) any necessary support services, except that not more than 15 percent of any grant under this subsection may be used for such purpose.

"(3) APPLICATION.—An application for a implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(4) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(5) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(e) EXCEPTIONS TO GENERAL PROGRAM REQUIREMENTS.—

"(1) LONG–TERM VIABILITY.—The Secretary may waive or revise rules established under this title governing rents, income eligibility, and other areas of public housing management, to permit a public housing agency to undertake measures that enhance the long-term viability of a severely distressed public housing project revitalized under this section.

"(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 6(c)(4)(A)(i). Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction.

"(f) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—Subject to the provisions of this section, the Secretary—

"(A) shall establish cost limitations on eligible activities under this section sufficient to provide for effective revitalization programs; and

"(B) may establish other cost limitations on eligible activities under this section.

"(2) ECONOMIC DEVELOPMENT.—Not more than an aggregate of $250,000 from amounts made available under subsections (c) and (d) may be used for economic development activities under subsections (c) and (d) for any project, except that the Secretary may for good cause waive the applicability of this paragraph for a project.

"(g) ADMINISTRATION.—For the purpose of carrying out the revitalization of severely distressed public housing in accordance with this section, the Secretary shall establish within the Department of Housing and Urban Development an Office of Severely Distressed Public Housing Revitalization.

"(h) DEFINITIONS.—For the purposes of this section:

"(1) APPLICANT.—The term 'applicant' means—

"(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

"(B) any public housing agency or private housing management agent selected, or receiver appointed pursuant, to section 6(j)(3);

"(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2), if such agency acts in concert with a private nonprofit organization, another public housing agency that is not designated as a troubled agency, resident management corporation or other entity approved by the Secretary; and

"(D) any public housing agency that is designated as troubled pursuant to section 6(j)(2) that—

"(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

"(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

"(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

"(2) PRIVATE NONPROFIT CORPORATION.—The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

"(3) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given the term in section 3(b), except that it does not include any Indian housing authority.

"(4) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project—

"(A) that—

"(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including appropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

"(ii) is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

"(iii) is in a location for recurrent vandalism and criminal activity (including drug-related criminal activity); and

"(iv) cannot remedy the elements of distress specified in clauses (i) through (iii) through assistance under other programs, such as the programs under section 9 or 14, or through other administrative means; or

"(B) that—

"(i) is owned by a public housing agency designated as troubled pursuant to section 6(j)(2);

"(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more, unless the project or building is vacant because it is awaiting rehabilitation under a modernization program under section 14 that—

"(I) has been approved and funded; and

"(II) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program; and

"(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

"(i) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

"(1) the number, type, and cost of public housing units revitalized pursuant to this section;

"(2) the status of projects identified as severely distressed public housing pursuant to subsection (b);

"(3) the amount and type of financial assistance provided under and in conjunction with this section; and

"(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.".

SEC. 121. CHOICE IN PUBLIC HOUSING MANAGEMENT.

<< 42 USCA § 1437w NOTE >>

(a) PURPOSE.—The purpose of this section is to encourage choice in management of distressed public housing projects by residents and increased resident management of public housing projects, as a means of improving living conditions in public housing projects, by providing for resident councils and resident management corporations to transfer the management of distressed projects to alternative managers.

<< 42 USCA § 1437w >>

(b) AMENDMENT TO 1937 ACT.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding after section 24 (as added by section 120 of this Act) the following new section:

"SEC. 25. CHOICE IN PUBLIC HOUSING MANAGEMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Choice in Public Housing Management Act of 1992'.

"(b) FUNDING.—

"(1) REHABILITATION AND REDEVELOPMENT GRANTS.—From amounts reserved under section 14(k)(2) for each of fiscal years 1993 and 1994, the Secretary may reserve not more than $50,000,000 in each such fiscal year for activities under this section (which may include funding operating reserves for eligible housing transferred under this section). The Secretary may make grants to managers and ownership entities to rehabilitate eligible housing in accordance with this section, as appropriate.

"(2) TECHNICAL ASSISTANCE.—The Secretary may use up to 5 percent of the total amount reserved under paragraph (1) for any fiscal year to provide, by contract, technical assistance to residents of public housing and resident councils to help such residents and councils make informed choices about options for alternative management under this section.

"(c) PROGRAM AUTHORITY.—

"(1) TRANSFER OF MANAGEMENT.—

"(A) IN GENERAL.—The Secretary may approve not more than 25 applications submitted for fiscal years 1993 and 1994 by resident councils for the transfer of the management of distressed public housing projects, or one or more buildings within projects, that are owned or operated by troubled public housing agencies, from public housing agencies to alternative managers.

"(B) REQUIRED VOTES.—An application for such transfer may be submitted and approved only if a majority of the members of the board of the resident council has voted in favor of the proposed transfer of management responsibilities, and a majority of the residents has also voted in favor of the transfer in an election supervised by a disinterested third party.

"(C) ASSISTANCE OF MANAGEMENT SPECIALIST.—Any resident council seeking to transfer management of distressed public housing under this section shall, in cooperation with the public housing agency for such housing, select a qualified public housing management specialist to assist in identifying and acquiring a capable manager for the housing.

"(2) REHABILITATION AND CAPITAL IMPROVEMENTS.—The Secretary may make rehabilitation grants and provide capital improvement funding under subsection (e) in connection with the transfer of eligible housing to a manager under this section.

"(d) OPERATING SUBSIDIES.—

"(1) AUTHORITY TO PROVIDE.—The Secretary may make operating subsidies under section 9 available to managers under this section.

"(2) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the operating subsidies made available to a manager based on the share for the housing under section 9 as determined by the Secretary.

"(3) EFFECT ON PHA GRANT.—Operating subsidies for any public housing agency transferring management under this section shall be reduced in accordance with the requirements of section 9.

"(e) REHABILITATION GRANTS AND CAPITAL IMPROVEMENT FUNDING.—

"(1) REHABILITATION GRANTS.—An application under subsection (f) may request approval of amounts set aside under subsection (b) for the rehabilitation of eligible housing. The manager and the Secretary shall enter into a contract governing the use of any such assistance provided.

"(2) ANNUAL CAPITAL IMPROVEMENT FUNDING.—

"(A) AUTHORITY TO PROVIDE.—The Secretary may make funding for capital improvements available annually from amounts under section 14 to managers of eligible housing. In accordance with the contract entered into pursuant to subsection (h), each manager receiving such funding shall establish a capital improvements reserve account and deposit in the account each year an amount not less than the annual amount of comprehensive grant funds it receives. Amounts in the reserve account may be used only for capital improvements and replacements.

"(B) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount made available to a manager under paragraph (1) for capital improvements based on the share for the housing under the comprehensive grant formula and, to the extent practicable, the public housing agency's comprehensive grant plan, in accordance with section 14, as determined by the Secretary.

"(C) LIMITATION IN THE CASE OF RECENT REHABILITATION.—Where eligible housing has received rehabilitation funding under paragraph (1) or has otherwise been comprehensively modernized within 3 years before the effective date of the contract between the Secretary and the manager for management of the eligible housing, only the accrual portion of the comprehensive grant formula amount shall be available for payment to the manager.

"(D) EFFECT ON PHA GRANT.—The formula amount of a comprehensive grant for a public housing agency transferring the housing under this section shall be reduced in accordance with the requirements of section 14.

"(3) RELATIONSHIP TO SECTION 14.—The provisions of section 14 shall apply with respect to rehabilitation grants under paragraph (1) or capital improvement funding under paragraph (2); except that the Secretary may waive the applicability of any of the provisions of such section where such provisions are not appropriate to the assistance under this subsection.

"(f) APPLICATION.—

"(1) FORM AND PROCEDURES.—

"(A) IN GENERAL.—To be eligible for approval for transfer of management from a public housing agency to a manager and for a grant under subsection (e), a resident council shall submit an application to the Secretary in such form and in accordance with such procedures as the Secretary shall establish.

"(B) PHA COMMENT ON APPLICATION.—A resident council submitting an application shall provide the public housing agency that owns or operates the housing involved a reasonable opportunity to comment on the application, as the Secretary shall prescribe.

"(C) PHA PROPOSAL.—The public housing agency may present to the resident council a proposal for the continued management of the housing by the agency, and the resident council shall give reasonable consideration to any such proposal.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain—

"(A) a description of the resident council and documentation of its authority;

"(B) documentation of the votes required under subsection (c)(1)(B);

"(C) a description of the proposed manager selected by the applicant (in accordance with procedures established or approved by the Secretary) and documentation of its capacity to manage the eligible housing;

"(D) a plan for carrying out the manager's responsibilities for managing the eligible housing;

"(E) documentation that the project (or building or buildings) for which management transfer is proposed is eligible housing;

"(F) documentation that each of the requirements under paragraph (1)(B) have been fulfilled;

"(G)(i) if the application includes a request for a rehabilitation grant under subsection (e) (which shall be included in any application involving eligible housing that is 50 percent or more vacant), the basis for the estimate of the amount requested, including—

"(I) the estimate of the eligible housing's need under the public housing agency's comprehensive plan (under section 14(e)(1)); and

"(II) an explanation, where appropriate, if an amount higher than the amount planned by the agency is being requested; or

"(ii) if the application does not include a request for a rehabilitation grant under subsection (e), a demonstration that needs for capital improvements and replacement for the housing can reasonably be expected to be funded from funding for capital improvements under subsection (e);

"(H) if the manager proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to the program;

"(I) an analysis showing that the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost;

"(J) a certification that the manager will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(K) such other information that the Secretary considers appropriate.

"(g) REVIEW AND APPROVAL BY THE SECRETARY.—

"(1) APPLICATIONS NOT REQUESTING REHABILITATION ASSISTANCE.—In the case of applications for the transfer of management of public housing that do not include a request for rehabilitation assistance under subsection (e), the Secretary may approve an application that meets the requirements of subsection (f)(2) and this section.

"(2) APPLICATIONS REQUESTING REHABILITATION GRANTS.—In the case of applications that include a request for rehabilitation assistance under subsection (e), the Secretary shall select applicants for approval based on a national competition. The Secretary shall, by regulation, establish selection criteria for the competition which provide for separate rating of applicants under this paragraph and of applicants under this section, and for selections from a single list of all applicants. The criteria shall include—

"(A) the quality of the plan for rehabilitating the eligible housing;

"(B) the extent of the capacity or potential capacity of the proposed manager to manage the housing and to carry out the rehabilitation program;

"(C) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;

"(D) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost; and

"(E) such other criteria as the Secretary may require.

"(h) CONTRACT BETWEEN SECRETARY AND MANAGER.—

"(1) TERMS.—After the Secretary approves an application, the Secretary shall enter into a contract with the manager for transfer of management of the eligible housing. In addition to other contract provisions required under this section, the contract shall—

"(A) give the manager the right to receive operating subsidies under subsection (d) and capital improvement funding under subsection (e);

"(B) require the manager to carry out all management responsibilities for the eligible housing, as provided in or required by the contract;

"(C) require the manager to carry out, for the eligible housing, all management responsibilities applicable to public housing agencies owning or operating public housing projects, including (i) maintaining the units in decent, safe, and sanitary condition in accordance with any standards for public housing established or adopted by the Secretary, (ii) determining eligibility of applicants for occupancy of units subject to the requirements of this Act, (iii) terminating tenancy in accordance with the procedures applicable to the section 8 new construction program, and (iv) determining the amount of rent paid for units in accordance with this Act; and

"(D) permit, but not require, the manager to select applicants from the public housing waiting list maintained by the public housing agency.

"(2) EXTENSION, EXPIRATION, AND TERMINATION.—

"(A) IN GENERAL.—The Secretary shall provide for a resident council that has entered into a contract under this subsection to—

"(i) approve the renewal of the contract between the Secretary and the manager; or

"(ii) disapprove renewal and submit an application to the Secretary, in accordance with subsection (f), proposing another manager, which may be the public housing agency.

"(B) DEFAULT.—If the Secretary determines that a manager is in default of its responsibilities under the contract, the Secretary may require the resident council to submit another application proposing a different manager, which may be the public housing agency.

"(i) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—The Secretary may establish cost limitations on activities under this section. The amount of rehabilitation funds under subsection (e)(1) that may be approved may not exceed the per unit cost limit applicable to the comprehensive grant program under section 14.

"(2) DEMOLITION AND DISPOSITION NOT PERMITTED.—A manager may not demolish or dispose of eligible housing under this section.

"(3) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS.—To be eligible to become a manager under this section, a resident management corporation—

"(A) shall demonstrate to the Secretary its ability to manage public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or

"(B) shall arrange for operation of the housing by a qualified management entity.

"(4) LIMITATIONS ON PHA LIABILITY.—A public housing agency shall not be liable for any act or failure to act by the manager or resident council.

"(5) BONDING AND INSURANCE.—Before assuming any management responsibility for eligible housing, a manager shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements established by the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the manager or its employees.

"(6) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER.—A public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing during the period beginning on the date that an application under subsection (f) is submitted by a resident council, and ending upon transfer of management of the housing or, if the application is disapproved, the date of the disapproval.

"(j) PERFORMANCE REVIEW AND COMPLIANCE.—

"(1) MONITORING.—The Secretary shall monitor the performance of managers under this section and shall assess their management performance using the performance indicators established under section 6(j)(1).

"(2) RECORDS, REPORTS, AND AUDITS OF MANAGERS.—

"(A) KEEPING OF RECORDS.—Each manager and resident council under this subtitle shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the manager of the proceeds of assistance received under this section and to ensure compliance with the requirements of this section.

"(B) ACCESS TO DOCUMENTS.—

"(i) SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager, resident council, and public housing agency that are pertinent to assistance received under, and to the requirements of, this section.

"(ii) GAO.—The Comptroller General of the United States, and any duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager and resident council that are pertinent to assistance received under, and to the requirements of, this section.

"(C) REPORTING REQUIREMENTS.—Each manager shall submit to the Secretary such reports as the Secretary determines appropriate to carry out the Secretary's responsibilities under this section, including an annual financial audit.

"(D) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress evaluating management transfers under this section compared to other methods of dealing with severely distressed public housing.

"(k) NONDISCRIMINATION.—No person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(*l*) RELATIONSHIP TO OTHER PROGRAMS.—

"(1) HOMEOWNERSHIP.—After a transfer of management in accordance with this section, the eligible housing shall remain eligible for assistance under title III and for sale under section 5(h). Participation in a homeownership program shall be consistent with a contract between the Secretary and a manager.

"(2) SELF–SUFFICIENCY.—Where an application under subsection (f) proposes a program to enable residents to achieve economic independence and self-sufficiency, consistent with the objectives of the program under section 23, and demonstrates that the manager has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the manager to adopt policies consistent with section 23(d) (relating to maximum rents and escrow savings accounts) and section 23(e) (relating to effect of increases in family income).

"(m) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that—

"(A) is owned or operated by a troubled public housing agency; and

"(B) has been identified as severely distressed under section 24 of this Act.

In the case of an individual building, the building shall, in the determination of the Secretary, be sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section.

"(2) The term 'manager' means one of the following entities that has entered into a contract with the Secretary for the management of eligible housing under this section:

"(A) A public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency).

"(B) A for-profit entity, if it has (i) demonstrated experience in providing low-income housing, and (ii) is participating in joint venture with an organization described in paragraph (3).

"(C) A State or local government, including an agency or instrumentality thereof.

"(D) A public housing agency (other than the public housing agency that owns the project).

The term does not include a resident council.

"(3) The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term includes resident management corporations.

"(4) The term 'public housing agency' has the meaning given such term in section 3(b), except that it does not include Indian housing authorities.

"(5) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(6) The term 'resident council' means any nonprofit organization or association that—

"(A) is representative of the residents of the eligible housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the eligible housing.

"(7) The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(8) The term 'troubled public housing agency' means a public housing agency with 250 or more units that—

"(A) has been designated as a troubled public housing agency for the current Federal fiscal year, and for the 2 preceding Federal fiscal years—

"(i) under section 6(j)(2)(A)(i); or

"(ii) before the implementation of such authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of this section; and

"(B) has not met targets for improved performance under section 6(j)(2)(C).".

SEC. 122. ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

<< 42 USCA § 1437aa >>

(a) EXEMPTION FROM NEW CONSTRUCTION LIMITATION.—Section 201(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(c)) is amended by inserting before the period at the end the following: "or section 6(h) of the United States Housing Act of 1937 (relating to a limitation on contracts involving new construction)".

<< 42 USCA § 1437bb >>

(b) MODERNIZATION.—Section 202(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)(2)) is amended by striking "single" in the second sentence.

<< 42 USCA § 1437cc >>

(c) PAYMENTS TO MUNICIPALITIES.—Section 203(b) of the United States Housing Act of 1937 (42 U.S.C. 1437cc(b)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act, the Secretary shall make annual payments from funds appropriated under section 9(c) to municipalities providing such roads, facilities, and systems in a amount equal to—

"(1) 10 percent of the applicable shelter rent, minus the utility allowance; or

"(2) $150,

whichever is greater, for each rental housing unit covered by this subsection.".

<< 12 USCA § 1701z–6 NOTE >>

SEC. 123. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT SERVICES.

Section 222(g) of the Housing and Urban–Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriation Acts, of any amounts appropriated for fiscal year 1993 under section 103 of the Housing and Community Development Act of 1974, $5,000,000 shall be available

to carry out this section. To the extent approved in appropriation Acts, of any amounts appropriated for fiscal year 1994 under section 5(c) of the United States Housing Act of 1937 for grants for the development of public housing, $5,210,000 shall be available to carry out this section. Any such amounts shall remain available until expended.".

<< 12 USCA § 1701z–6 NOTE >>

SEC. 124. INDIAN HOUSING CHILDHOOD DEVELOPMENT SERVICES.

(a) FUNDING.—Section 518(a) of the Cranston–Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note) is amended by striking the subsection designation and all that follows through the end of the first sentence and inserting the following:

"(a) FUNDING.—To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1993 for public housing grants for Indian housing, $5,200,000 may be used to carry out the demonstration program under this section. To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1994 for public housing grants for Indian housing, $5,418,400 may be used to carry out the demonstration program under this section.".

(b) ELIGIBLE RECIPIENTS.—The second sentence of section 518(a) of the Cranston–Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note) is amended—

(1) by inserting ", Indian housing authorities, and Indian tribes" after "nonprofit organizations"; and

(2) by inserting ", housing authorities, and tribes" after "such organizations".

<< 42 USCA § 1437t NOTE >>

SEC. 125. PUBLIC HOUSING ONE–STOP PERINATAL SERVICES DEMONSTRATION.

Section 521(g) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out the demonstration program under this section $200,000 for fiscal year 1993 and $208,400 for fiscal year 1994.".

SEC. 126. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

<< 42 USCA § 11909 >>

(a) FUNDING FROM PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION FUNDS.—Section 5130 of the Anti–Drug Abuse Act of 1988 (42 U.S.C. 11909) is amended by adding at the end the following new subsection:

"(c) SET–ASIDE FOR YOUTH SPORTS PROGRAMS.—Of any amount made available in any fiscal year to carry out this chapter, 5 percent of such amount shall be available for public housing youth sports program grants under section 520 of the Cranston–Gonzalez National Affordable Housing Act for such fiscal year.".

<< 42 USCA § 11903a >>

(b) ELIGIBILITY OF INSTITUTIONS OF HIGHER LEARNING.—

(1) IN GENERAL.—Section 520(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) is amended—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(8) institutions of higher learning that have never participated in a youth sports program assisted under this section.".

(2) TRANSPORTATION COSTS AS ELIGIBLE EXPENSE.—Section 520(d) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(d)) is amended by adding at the end the following new paragraph:

"(4) In the case only of an eligible entity described in subsection (b)(8), any transportation costs in connection with the program.".

(c) DEMONSTRATION PROGRAM.—Of any amounts made available in fiscal year 1993 for carrying out section 520 of the Cranston–Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development shall provide not more than $500,000 for the program known as the "Success Through Academic and Recreational Support" program, administered by the City of Fort Myers, Florida, to demonstrate the effectiveness of programs that use trained counselors to run sports and academic activities for at-risk children, including children of low-income families residing in public housing. The grantee shall comply with all applicable program requirements under subsections (c), (d), (e), and (h) of such section. The Secretary shall evaluate the advantages of the program assisted under this subsection and determine how the program may provide a model for other cities conducting, or interested in conducting, similar activities.

SEC. 127. NATIONAL COMMISSION ON DISTRESSED PUBLIC HOUSING.

<< 12 USCA § 1715z–1a NOTE >>

(a) TERMINATION.—Section 507 of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z–1a note) is amended by striking "upon the expiration of 18 months following the appointment of all the members under section 503(a)" and inserting "at the end of September 30, 1992".

(b) AUDIT.—Not later than December 30, 1992, the Comptroller General of the United States shall conduct an audit of the financial transactions of the National Commission on Distressed Public Housing to determine the use of any amounts received by the Commission from the Federal Government before October 1, 1992, and shall submit a report to the Congress regarding the results of the audit. The Comptroller General and any duly authorized representatives of the Comptroller General shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession and control of the Commission that the Comptroller General considers relevant to the audit.

<< 42 USCA § 1437aa NOTE >>

SEC. 128. NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 605 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1437aa note) is amended to read as follows: "There is authorized to be appropriated to carry out this title $500,000 for fiscal year 1993.".

(b) EXTENSION OF TERMINATION DATE.—Section 602(g) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1437aa note) is amended by striking "upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1)" and inserting "on October 1, 1993".

<< 42 USCA § 1437f NOTE >>

SEC. 129. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) IN GENERAL.—Section 326(d) of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437f note) is amended to read as follows:

"(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

"(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

"(A) 50 percent of the amount actually collected, or

"(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

"(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

"(3) RECOVERY.—Amounts may be recovered under this paragraph—

"(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

"(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937.".

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act.

<< 42 USCA § 1437d NOTE >>

SEC. 130. PROJECT–BASED ACCOUNTING.

Section 502(c)(2) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 1437d note) is amended by inserting before the period the following: "for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.

SEC. 131. SALE OF CERTAIN SCATTERED–SITE HOUSING.

The Secretary of Housing and Urban Development shall authorize the Delaware State Housing Authority in the State of Delaware to sell scattered-site public housing of the Authority under the provisions of section 5(h) of the United States Housing Act of 1937. Any proceeds from the disposition of such housing shall be used to purchase replacement scattered-site dwellings, which shall be considered public housing for the purposes of such Act and for which the Secretary shall provide annual contributions for operation, using amounts made available under section 9(c) of such Act.

SEC. 132. HOMEOWNERSHIP DEMONSTRATION PROGRAM IN OMAHA, NEBRASKA.

(a) ESTABLISHMENT.—The Secretary shall carry out a program to facilitate self-sufficiency and homeownership of single-family homes administered by the Housing Authority of the city of Omaha, in the State of Nebraska (in this section referred to as the "Housing Authority"), to demonstrate the effectiveness of promoting homeownership and providing support services.

(b) PARTICIPATING PUBLIC HOUSING UNITS.—For purposes of the demonstration program, the Secretary shall authorize the Housing Authority to designate single-family housing units for eventual homeownership. Over the term of the demonstration, the demonstration program may be applied to not more than 20 percent of the total number of public housing units administered by the Housing Authority. In conducting the demonstration, the Housing Authority shall affirmatively further fair housing objectives.

(c) NONDISPLACEMENT.—No person who is a tenant of public housing may be involuntarily relocated or displaced as a result of the demonstration program.

(d) ECONOMIC SELF–SUFFICIENCY.—

(1) ESTABLISHMENT OF PARTICIPATION CRITERIA.—The Housing Authority shall establish criteria for the participation of families in the demonstration program. Such criteria shall be based on factors that may reasonably be expected to predict a family's ability to succeed in the homeownership program established by this section.

(2) CONTENTS OF PARTICIPATION CRITERIA.—The criteria referred to in paragraph (1) shall include evidence of interest by the family in homeownership, the employment status and history of employment of family members, and maintenance by the family of the family's previous dwelling.

(e) PROVISION OF SUPPORTIVE SERVICES.—The Housing Authority shall ensure the availability of supportive services to each family participating in the demonstration program through its own resources and through coordination with Federal, State, and local agencies and private entities. Supportive services available under the demonstration program may include

counseling, remedial education, education for completion of high school, job training and preparation, financial counseling emphasizing planning for homeownership, and any other appropriate services.

(f) REPORTS TO CONGRESS.—

(1) BIENNIAL REPORT.—Upon the expiration of the 2–year period beginning on the date of enactment of this Act, and each 2–year period thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the effectiveness of the demonstration program established under this section.

(2) FINAL REPORT.—Not later than 60 days after termination of the demonstration program pursuant to subsection (h), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program.

(g) REGULATIONS.—Not later than the expiration of the 90–day period beginning on the date of the enactment of this Act, the Secretary shall issue interim regulations to carry out this section, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60–day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(h) TERMINATION.—The demonstration program established under this section shall terminate 10 years after the date of the enactment of this Act.

Subtitle C—Section 8 Assistance

<< 42 USCA § 1437f >>

SEC. 141. ELIGIBILITY OF LOW–INCOME FAMILIES TO RECEIVE RENTAL ASSISTANCE.

(a) CERTIFICATES.—The first sentence of section 8(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(4)) is amended by inserting before the first comma the following: “or by a family that qualifies to receive assistance under subsection (b) pursuant to section 223 or 226 of the Low–Income Housing Preservation and Resident Homeownership Act of 1990”.

(b) VOUCHERS.—Section 8(o)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(A)) is amended—

(1) by striking “or” at the end of clause (iii); and

(2) by inserting before the period the following: “, or (v) a family that qualifies to receive a voucher under section 223 or 226 of the Low–Income Housing Preservation and Resident Homeownership Act of 1990”.

<< 42 USCA § 1437f >>

SEC. 142. CONTRACT ADJUSTMENTS FOR EXPIRATION OF PROPERTY TAX EXEMPTION.

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by inserting after the first sentence the following new sentence: “The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.”.

<< 42 USCA § 1437f >>

SEC. 143. TERMINATION OF CONTRACTS.

The last sentence of section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended by inserting before the period at the end the following: “, and such term shall include termination of the contract for business reasons”.

<< 42 USCA § 1437f >>

SEC. 144. PREFERENCES FOR VETERANS WITH DISABILITIES THAT PREVENT USE OF HOME.

(a) CERTIFICATES.—Section 8(d)(1)(A)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(ii), is amended—

(1) by striking "(V)" and inserting "(VI)"; and

(2) by inserting after "adoption is not available;" the following: "(V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;".

(b) VOUCHERS.—The third sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended—

(1) by striking "(v)" and inserting "(vi)"; and

(2) by inserting after "adoption is not available;" the following: "(v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;".

<< 42 USCA § 1437f >>

SEC. 145. TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 8(d)(1)(B)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)(iii)) is amended—

(1) by inserting ", any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises," before "or any drug-related"; and

(2) by striking "public housing tenant" and inserting "tenant of any unit".

<< 42 USCA § 1437f >>

SEC. 146. DEFINITIONS OF "PROJECT–BASED ASSISTANCE" AND "TENANT–BASED ASSISTANCE".

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'project-based assistance' means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2); and

"(7) the term 'tenant-based assistance' means rental assistance under subsection (b) or (o) that is not project-based assistance.".

<< 42 USCA § 1437f >>

SEC. 147. PORTABILITY.

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended by inserting before the period at the end the following: "; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12–month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency".

<< 42 USCA § 1437f >>

SEC. 148. FAMILY UNIFICATION ASSISTANCE.

Section 8(x)(1) of the United States Housing Act of 1937 (12 U.S.C. 1437f(x)(1)) is amended to read as follows:

"(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.".

<< 42 USCA § 1437f NOTE >>

SEC. 149. IMPLEMENTATION OF AMENDMENTS TO PROJECT–BASED CERTIFICATE PROGRAM.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston–Gonzalez National Affordable Housing Act not later than the expiration of the 180–day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30–day period beginning upon issuance.

<< 42 USCA § 1437f NOTE >>

SEC. 150. EFFECTIVENESS OF SECTION 8 ASSISTANCE FOR PHA–OWNED UNITS.

The amendments made by section 548 of the Cranston–Gonzalez National Affordable Housing Act shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.

<< 42 USCA § 1437f NOTE >>

SEC. 151. IMPLEMENTATION OF INCOME ELIGIBILITY PROVISIONS FOR SECTION 8 NEW CONSTRUCTION UNITS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) not later than the expiration of the 180–day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30–day period beginning upon issuance.

<< 42 USCA § 1437f NOTE >>

SEC. 152. MOVING TO OPPORTUNITY FOR FAIR HOUSING.

(a) AUTHORITY.—Using any amounts available under subsection (e), the Secretary of Housing and Urban Development shall carry out a demonstration program to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to assist very low-income families with children who reside in public housing or housing receiving project-based assistance under section 8 of the United States Housing Act of 1937 to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons. The demonstration program carried out under this section shall compare and contrast the costs associated with implementing such a program (including the costs of counseling, supportive services, housing assistance payments and other relevant program elements) with the costs associated with the routine implementation of the section 8 tenant-based rental assistance programs. The Secretary shall enter into annual contributions contracts with public housing agencies to administer housing assistance payments contracts under the demonstration.

(b) ELIGIBLE CITIES.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration only in cities with populations exceeding 350,000 that are located in consolidated metropolitan statistical areas (as designated by the Director of the Office of Management and Budget) having populations exceeding 1,500,000.

(2) 1993.—Notwithstanding paragraph (1), in fiscal year 1993, only the 5 cities selected for the demonstration under the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING RESCISSION OF FUNDS)" of title II of the Departments of Veterans Affairs and Housing and Urban Development, and

Independent Agencies Appropriations Act, 1992 (105 Stat. 745), and the City of Los Angeles, California, shall be eligible for the demonstration under this section.

(c) SERVICES.—The Secretary shall enter into contracts with nonprofit organizations to provide counseling and services in connection with the demonstration.

(d) REPORTS.—

(1) BIENNIAL.—Not later than the expiration of the 2–year period beginning on the date of the enactment of this Act (and biennially thereafter), the Secretary shall submit interim reports to the Congress evaluating the effectiveness of the demonstration program under this section. The interim reports shall include a statement of the number of persons served, the level of counseling and the types of services provided, the cost of providing such counseling and services, updates on the employment record of families assisted under the program, and any other information the Secretary considers appropriate in evaluating the demonstration.

(2) FINAL.—Not later than September 30, 2004, the Secretary shall submit a final report to the Congress describing the long-term housing, employment, and educational achievements of the families assisted under the demonstration program. Such report shall also contain an assessment of such achievements for a comparable population of section 8 recipients who have not received assistance under the demonstration program.

(e) FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for tenant-based assistance under section 8 of such Act is authorized to be increased by $50,000,000, on or after October 1, 1992, and by $52,100,000, on or after October 1, 1993, to carry out the demonstration under this section. Any amounts made available under this paragraph shall be used in connection with the demonstration under this section.

(f) IMPLEMENTATION.—The Secretary may, by notice published in the Federal Register, establish any requirements necessary to carry out the demonstration under this section and the amendment made by this section. The Secretary shall publish such notice not later than the expiration of the 90–day period beginning on the date of the enactment of this Act and shall submit a copy of such notice to the Congress not less than 15 days before publication.

<< 42 USCA § 1437f NOTE >>

SEC. 153. DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with individuals representing fair housing organizations, low-income tenants, public housing agencies, and other interested parties, shall—

(1) review and comment upon the study prepared by the Comptroller General of the United States pursuant to section 558(3) of the Cranston–Gonzalez National Affordable Housing Act;

(2) evaluate the implementation and effects of existing demonstration and judicially mandated programs that help minority families receiving section 8 certificates and vouchers move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations, including how such programs differ from the routine implementation of the section 8 certificate and voucher programs;

(3) independently assess factors (including the adequacy of section 8 fair market rentals, the level of counseling provided by public housing agencies, the existence of racial and ethnic discrimination by landlords) that may impede the geographic dispersion of families receiving section 8 certificates and vouchers;

(4) identify and implement any administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of various demonstration and judicially mandated mobility programs; and

(5) submit to the Congress a report describing its findings under paragraphs (1), (2), and (3), the actions taken under paragraph (4), and any recommendations for additional demonstration, research, or legislative action.

<< 42 USCA § 1439 >>

SEC. 154. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas.".

SEC. 155. COMPLIANCE OF CERTAIN ACTIVITIES WITH LIMITATIONS ON PROJECT–BASED ASSISTANCE.

Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc. in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, are hereby deemed to have been conducted pursuant to an agreement with the Secretary of Housing and Urban Development under clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)).

Subtitle D—Other Programs

SEC. 161. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

<< 42 USCA § 11909 >>

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 5130(a) of the Anti–Drug Abuse Act of 1988 (42 U.S.C. 11909(a)) is amended to read as follows: "There are authorized to be appropriated to carry out this chapter $175,000,000 for fiscal year 1993 and $182,350,000 for fiscal year 1994.".

(b) FISCAL YEAR 1993 SET–ASIDES.—Section 5130(b) of the Anti–Drug Abuse Act of 1988 (42 U.S.C. 11909(b)) is amended—

(1) by striking "SET–ASIDE FOR ASSISTED HOUSING" and inserting "SET–ASIDES"; and

(2) by inserting after the period at the end the following new sentence: "Notwithstanding any other provision of law, of any amounts appropriated for drug elimination grants under this chapter for fiscal years 1993 and 1994, not more than 6.25 percent shall be available for grants for federally assisted low-income housing and 5.0 percent shall be available for public housing youth sports program grants under section 520 of the Cranston–Gonzalez National Affordable Housing Act.".

<< 42 USCA § 11903 >>

(c) DRUG–RELATED ACTIVITY IN OTHER PHA–OWNED HOUSING.—Section 5124 of the Anti–Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) by inserting "(a) PUBLIC AND ASSISTED HOUSING.—" before "Grants"; and

(2) by adding at the end the following new subsection:

"(b) OTHER PHA–OWNED HOUSING.—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

"(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of this Act; and

"(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related activity at the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.".

(d) ELIGIBILITY OF PUBLIC HOUSING RESIDENT MANAGEMENT CORPORATIONS.—Chapter 2 of subtitle C of title 5 of the Anti–Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.) is amended—

<< 42 USCA § 11902 >>

(1) in section 5123, by inserting after "(including Indian Housing Authorities)" the following: ", public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies,";

<< 42 USCA § 11903 >>

(2) in paragraph (7) of section 5124(a) (as so designated by subsection (c) of this section), by inserting after "(7)" the following: "where a public housing agency receives a grant,"; and

<< 42 USCA § 11904 >>

(3) in the first sentence of section 5125(a), by inserting after "public housing agency" the following: ", a public housing resident management corporation,".

<< 42 USCA § 11909 NOTE >>

(e) PUBLICATION OF REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish such final regulations as may be necessary to implement section 5130(b) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909(a)).

SEC. 162. HOUSING COUNSELING.

<< 12 USCA § 1701x >>

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows through the period and inserting "except that for such purposes there are authorized to be appropriated $6,025,000 for fiscal year 1993 and $6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to $500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1993 and $7,294,000 for fiscal year 1994, of which amounts $1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

(3) AVAILABILITY.—Section 106(c)(3)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(3)(A)) is amended—

(A) in clause (i), by striking "and" at the end; and

(B) by adding at the end the following new clause:

"(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and".

(4) ELIGIBILITY.—Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended by adding at the end the following new flush sentence:

"An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the applicant is a first-time homebuyer who meets the requirements of section 303(b)(1) of the Cranston–Gonzalez National Affordable Housing Act and the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act.".

(5) NOTIFICATION OF AVAILABILITY.—Section 106(c)(5)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(i) REQUIREMENT.—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

"(ii) CONTENT.—Notification under this subparagraph shall—

"(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

"(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act; and

"(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i).".

(6) ANNUAL UPDATE OF LIST OF COUNSELING ORGANIZATIONS FOR TOLL–FREE NUMBER.—The matter preceding subclause (I) in section 106(c)(5)(D)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(D)(i)) is amended by inserting ", which shall be updated annually," after "organizations".

(c) PREPURCHASE AND FORECLOSURE–PREVENTION COUNSELING DEMONSTRATION.—Section 106(d)(12) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)(12)) is amended to read as follows:

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $365,000 for fiscal year 1993 and $380,330 for fiscal year 1994.".

(d) ELIGIBILITY FOR COUNSELING ASSISTANCE UNDER HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AND CERTIFICATION AND TRAINING PROGRAM.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsections:

"(e) CERTIFICATION.—

"(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.

"(2) STANDARDS AND EXAMINATION.—The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

"(A) Financial management.

"(B) Property maintenance.

"(C) Responsibilities of homeownership and tenancy.

"(D) Fair housing laws and requirements.

"(E) Housing affordability.

"(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

"(3) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

"(f) HOMEOWNERSHIP AND RENTAL COUNSELOR TRAINING AND CERTIFICATION PROGRAMS.—

"(1) ESTABLISHMENT.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

"(2) ELIGIBILITY AND SELECTION.—

"(A) ELIGIBILITY.—To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.

"(B) SELECTION.—The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

"(i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);

"(ii) minimize the costs involved in establishing the program; and

"(iii) effectively and efficiently carry out the program.

"(3) TRAINING.—The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

"(4) CERTIFICATION.—The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.

"(5) FEES.—Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

"(6) TIMING.—The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1–year period beginning upon such selection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1993 and $2,084,000 for 1994.".

<< 12 USCA § 1701x NOTE >>

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out the amendments made by subsection (d), not later than the expiration of the 6–month period beginning on the date of the enactment of this Act.

<< 42 USCA § 1437f NOTE >>

SEC. 163. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

IN GENERAL.—Section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended to read as follows:

"SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

"(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

"(1) was—

"(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

"(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

"(2) is being refinanced.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

"(c) APPLICABILITY AND BUDGET COMPLIANCE.—

"(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

"(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.".

SEC. 164. HOPE FOR YOUTH.

Title IV of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

<< 42 USCA Ch. 108 >>

"Subtitle D—HOPE for Youth: Youthbuild

<< 42 USCA § 12899 >>

"SEC. 451. STATEMENT OF PURPOSE.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by utilizing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

<< 42 USCA § 12899a >>

"SEC. 452. PROGRAM AUTHORITY.

"The Secretary may make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

<< 42 USCA § 12899b >>

"SEC. 453. PLANNING GRANTS.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the potential of the applicant for developing a successful and affordable Youthbuild program;

"(3) the need for the prospective program, as determined by the degree of economic distress—

"(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

"(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

"(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

<< 42 USCA § 12899c >>

"SEC. 454. IMPLEMENTATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used to carry out Youthbuild programs, including the following activities:

"(1) Architectural and engineering work.

"(2) Acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title, residential housing for homeless individuals, and low- and very low-income families, or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs.

"(3) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization.

"(4) Education and job training services and activities including—

"(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

"(B) services and activities designed to meet the educational needs of participants, including—

"(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in attaining post-secondary education and required financial aid;

"(C) counseling services and related activities;

"(D) activities designed to develop employment and leadership skills, including support for youth councils; and

"(E) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment.

"(5) Wage stipends and benefits provided to participants.

"(6) Funding of operating expenses and replacement reserves of the property covered by the Youthbuild program.

"(7) Legal fees.

"(8) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

"(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

"(6) the inclusion of previously homeless tenants in the housing provided;

"(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(e) PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure under which an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

<< 42 USCA § 12899d >>

"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) OCCUPANCY BY LOW– AND VERY LOW–INCOME FAMILIES.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families.

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937; and

"(iv) provide for (I) the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and (II) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(5) PROHIBITION AGAINST DISCRIMINATION.—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations applicable to comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—

"(1) MONTHLY RENTAL LIMITATION.—The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

"(2) PROFIT LIMITATIONS ON PARTNERS.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of subtitle B or subtitle C of this title.

"(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

<< 42 USCA § 12899e >>

"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may participate in a Youthbuild program receiving assistance under this subtitle only if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) a very low-income individual or a member of a very low-income family; and

"(C) an individual who has dropped out of high school.

"(2) EXCEPTION FOR INDIVIDUALS NOT MEETING INCOME OR EDUCATIONAL NEED REQUIREMENTS.—Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of either paragraphs (1)(B) or (C), but who have educational needs despite attainment of a high school diploma or its equivalent.

"(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle shall be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in subparagraphs (B) through (F) of section 454(b)(4).

"(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(d) STATE AND LOCAL STANDARDS.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

"(e) WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. This section may not be construed to prevent a recipient of a grant under this subtitle from using funds from non-Federal sources to increase wages and benefits under such programs, if appropriate.

<< 42 USCA § 12899f >>

"SEC. 457. DEFINITIONS.

"For purposes of this subtitle:

"(1) ADJUSTED INCOME.—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(2) APPLICANT.—The term 'applicant' means a public or private nonprofit agency, including—

"(A) a community-based organization;

"(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

"(C) a community action agency;

"(D) a State and local housing development agency;

"(E) a community development corporation;

"(F) a State and local youth service and conservation corps; and

"(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

"(3) COMMUNITY–BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(5) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(6) INCOME.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

"(8) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(10) LIMITED–ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(11) LOW–INCOME FAMILY.—The term 'low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(12) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(13) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(14) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities.

"(15) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(16) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

"(17) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(18) VERY LOW–INCOME FAMILY.—The term 'very low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(19) YOUTHBUILD PROGRAM.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

<< 42 USCA § 12899g >>

"SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.

"(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

"(b) SPONSOR ASSISTANCE.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

"(c) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(d) RESERVATION OF FUNDS.—In each fiscal year, the Secretary shall reserve 5 percent of the amounts available for activities under this subtitle pursuant to section 402 to carry out subsections (b) and (c) of this section.

<< 42 USCA § 12899h >>

"SEC. 459. CONTRACTS.

"Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

<< 42 USCA § 12899i >>

"SEC. 460. REGULATIONS.

"The Secretary shall issue any regulations necessary to carry out this subtitle.".

SEC. 165. EXTENSION FOR COMMENCEMENT OF CERTAIN CONSTRUCTION.

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall extend the deadline for commencement of construction until September 30, 1993, for the application for assistance under such section 17 for HDG project number IL004HG702, and upon commencement of construction shall execute the grant agreement for such project as currently approved or amended.

Subtitle E—Homeownership Programs

SEC. 181. HOPE PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS AND TECHNICAL ASSISTANCE.—

<< 42 USCA § 12870 >>

(1) IN GENERAL.—Title IV of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended by inserting after section 401 the following new section:

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

"(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title $855,000,000 for fiscal year 1993, of which—

"(1) $285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to $4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) $285,000,000 shall be available for activities authorized under subtitle B, of which up to $3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(3) $285,000,000 shall be available for activities under subtitle C, of which up to $2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to $40,000,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

"(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title $883,641,000 for fiscal year 1994, of which—

"(1) $294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) $294,547,000 shall be available for activities authorized under subtitle B, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(3) $294,547,000 shall be available for activities under subtitle C, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to $41,680,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

"(c) TECHNICAL ASSISTANCE.—Technical assistance made available under title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.".

(2) CONFORMING AMENDMENTS.—

<< 42 USCA § 1437aaa >>

(A) HOPE I.—Section 301 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa(c)) is amended by striking subsection (c).

(B) HOPE II AND HOPE III.—Title IV of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended—

<< 42 USCA § 12871 >>

(i) by striking subsection (c) of section 421; and

<< 42 USCA § 12891 >>

(ii) in section 441—

(I) by striking "(a) IN GENERAL.—"; and

(II) by striking subsection (b).

<< 42 USCA § 12870 NOTE >>

(3) GAO AUDIT OF TECHNICAL ASSISTANCE CONTRACTS.—The Comptroller General of the United States shall conduct an audit of all of the technical assistance contracts awarded for fiscal years 1993 and 1994 pursuant to section 402 of the Cranston–Gonzalez National Affordable Housing Act. The Comptroller General shall submit a report to the Congress describing the results of such audit not later than September 30, 1994.

<< 42 USCA § 1437aaa–2 >>

(b) HOPE I MATCHING FUNDING.—Section 303(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(c)(1)) is amended—

(1) in paragraph (1), by inserting after "expenses" the following: "and replacement housing"; and

(2) by inserting at the end the following new paragraph:

"(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston–Gonzalez National Affordable Housing Act.".

<< 42 USCA § 1437aaa–2 >>

(c) GRANT SELECTION CRITERIA FOR HOPE I.—Section 303(e)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(e)(8)) is amended—

(1) by striking "of the type assisted under this title"; and

(2) by striking "appreciably".

<< 42 USCA § 12876 >>

(d) ELIGIBILITY OF MUTUAL HOUSING ASSOCIATIONS FOR HOPE II GRANTS.—Section 426(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12876(1)) is amended by adding at the end the following new subparagraph:

"(G) A mutual housing association.".

(e) ELIGIBLE PROPERTY UNDER HOPE II.—Section 426(3)(D) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D)) is amended by inserting before the period at the end the following "or an agency or instrumentality thereof".

<< 42 USCA § 12894 >>

(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS UNDER HOPE III.—Section 444 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12894) is amended by adding at the end the following new subsection:

"(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS.—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.".

(g) TRANSFER OF SCATTERED SITE PUBLIC AND INDIAN HOUSING TO HOPE PROGRAMS.—

(1) HOPE I.—

<< 42 USCA §§ 1437aaa–2, 1437aaa–3 >>

(A) IN GENERAL.—Sections 303(b)(2) and 304(d) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(b)(2) and 42 U.S.C. 1437aaa–3(d)) are each amended by striking "(not including scattered site single family housing of a public housing agency)".

<< 42 USCA § 1437aaa–2 >>

(B) OPERATING SUBSIDIES.—Section 303(b)(9) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–2(b)(9)) is amended by inserting before the period at the end the following: ", and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program".

<< 42 USCA § 12896 >>

(2) HOPE III.—Section 446(4) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12896(4)) is amended by striking "(including scattered site single family properties, and" and inserting "(excluding public or Indian housing under the United States Housing Act of 1937 and including".

<< 42 USCA §§ 12876, 12896 >>

(h) ELIGIBILITY OF OTHER FEDERAL PROPERTY FOR HOPE PROGRAMS.—Sections 426(3)(D) and 446(4) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D) and 42 U.S.C. 12896(4)) are each amended by inserting after "Corporation," the following: "the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,".

SEC. 182. NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION.

<< 42 USCA § 12859 >>

(a) EXTENSION OF TRUST.—Section 310 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12859) is amended by striking "on September 30, 1993" and inserting "September 30, 1994".

<< 42 USCA § 12857 >>

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 308 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12857) is amended to read as follows:

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for assistance payments under this subtitle $520,665,600 for fiscal year 1993 and $542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.".

<< 42 USCA § 12852 >>

(c) USE OF TRUST AMOUNTS IN CONNECTION WITH MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Section 303 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12852) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—

"(1) AUTHORITY.—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

"(2) ELIGIBILITY.—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

"(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;

"(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

"(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12–month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

"(3) LIMITATION OF ASSISTANCE.—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

"(A) INTEREST RATE BUYDOWNS.—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

"(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

"(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

"(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

"(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

"(B) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

"(3) AVAILABILITY.—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.".

(2) CONFORMING AMENDMENT.—Section 303(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding at the end the following new paragraph:

"(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).".

(d) ELIGIBILITY OF MANUFACTURED HOME OWNERS.—Section 303(b)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12852(b)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

(e) SECOND MORTGAGE ASSISTANCE.—Section 303(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding after paragraph (3) (as added by subsection (c)(3) of this section) the following new paragraphs:

"(4) SECOND MORTGAGE ASSISTANCE.—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and

"(5) CAPITALIZATION OF REVOLVING LOAN FUNDS.—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.".

<< 12 USCA § 1715*l* NOTE >>

SEC. 183. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

(a) HOMEOWNER INCENTIVE.—Section 604 of the Housing and Community Development Act of 1987 (12 U.S.C. 17151 note) is amended—

(1) in subsection (b)(4), by inserting before the period the following: ", subject to the provisions of subsection (c)"; and

(2) by adding at the end the following new subsection:

"(c) HOMEOWNER INCENTIVE.—The nonprofit organization may provide that, upon the sale or transfer of a property purchased with a loan made under this section, any proceeds remaining after repaying the first mortgage shall be distributed in the following order:

"(1) DOWNPAYMENT.—The amount of the downpayment made by the seller or transferor upon the purchase of the property shall be paid to the seller or transferor.

"(2) LOAN AND PROFIT.—Any amounts remaining after distribution under paragraph (1) shall be shared equally between the Secretary and the seller or transferor, but only to the extent that the Secretary recovers an amount equal to the amount of the loan made under this section. If such remaining amounts are insufficient for the Secretary to recover the full amount of the loan made under this section, the second mortgage held by the Secretary under subsection (b)(1) shall be cancelled.

"(3) PROFIT.—Any amounts remaining after distribution under paragraphs (1) and (2) shall be paid to the seller or transferor.".

(b) CONFORMING AMENDMENTS.—Section 606(e)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 17151 note) is amended—

(1) by inserting "subject to the provisions of section 604(c)," after the comma; and

(2) by striking "(in which case" and all that follows through "repaid)".

(c) APPLICABILITY.—The amendments made by this section shall apply to any loan made under section 604 of the Housing and Community Development Act of 1987 after July 1, 1990.

<< 12 USCA § 1715z–13a >>

SEC. 184. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) AUTHORITY.—To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family or Indian housing authority.

(b) ELIGIBLE LOANS.—Loans guaranteed pursuant to this section shall meet the following requirements:

(1) ELIGIBLE BORROWERS.—The loans shall be made only to borrowers who are Indian families or Indian housing authorities.

(2) ELIGIBLE HOUSING.—The loan shall be used to construct, acquire, or rehabilitate 1– to 4–family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) SECURITY.—The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) LENDERS.—The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404 and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) an amount equal to the sum of (I) 97 percent of $25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and (II) 95 percent of such value in excess of $25,000; and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) CERTIFICATE OF GUARANTEE.—

(1) APPROVAL PROCESS.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) EFFECT.—A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) GUARANTEE FEE.—The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

(e) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) PAYMENT UNDER GUARANTEE.—

(1) LENDER OPTIONS.—

(A) IN GENERAL.—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) FORECLOSURE.—The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) NO FORECLOSURE.—Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) ASSIGNMENT BY SECRETARY.—Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(3) LIMITATIONS ON LIQUIDATION.—In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) INDIAN HOUSING LOAN GUARANTEE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) CREDITS.—The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loan guarantees for such fiscal year.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1993 and 1994 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for each such year.

(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for fiscal year 1993 and $50,000,000 for fiscal year 1994.

(j) REQUIREMENTS FOR STANDARD HOUSING.—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act.

(k) DEFINITIONS.—For purposes of this section:

(1) The term "family" means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term "Guarantee Fund" means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term "Indian" means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term "Indian area" means the area within which an Indian housing authority is authorized to provide housing.

(5) The term "Indian housing authority" means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "standard housing" means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) The term "tribe" means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(9) The term "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

SEC. 185. ASSISTANCE UNDER SECTION 8 FOR HOMEOWNERSHIP.

<< 42 USCA § 1437f >>

(a) AUTHORITY.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by adding at the end the following new subsection:

"(y) HOMEOWNERSHIP OPTION.—

"(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family—

"(A) is a first-time homeowner;

"(B)(i) participates in the family self-sufficiency program under section 23 of the public housing agency providing the assistance; or

"(ii) demonstrates that the family has income from employment or other sources (other than public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

"(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

"(D) participates in a homeownership and housing counseling program provided by the agency; and

"(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

"(2) MONTHLY ASSISTANCE PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

"(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.

"(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

"(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 23(d). Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

"(5) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

"(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

"(A) Subsection (c)(3)(B) of this section.

"(B) Subsection (d)(1)(B)(i) of this section.

"(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

"(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

"(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

"(7) REVERSION TO RENTAL STATUS.—

"(A) FHA–INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

"(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

"(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

"(8) DEFINITION OF FIRST–TIME HOMEOWNER.—For purposes of this subsection, the term 'first-time homeowner' means—

"(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

"(B) any other family, as the Secretary may prescribe.".

<< 42 USCA § 1437u >>

(b) FAMILY SELF–SUFFICIENCY PROGRAM.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended by adding at the end the following new paragraph:

"(3) USE OF ESCROW SAVINGS ACCOUNTS FOR SECTION 8 HOMEOWNERSHIP.—Notwithstanding paragraph (3), a family that uses assistance under section 8(y) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement

needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.".

(c) USE OF FHA INSURANCE WITH SECTION 8 HOMEOWNERSHIP.—

<< 12 USCA § 1709 >>

(1) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(A) in the matter preceding subparagraph (A) in subsection (c)(2), by inserting "or of the General Insurance Fund pursuant to subsection (v)" after "Fund"; and

(B) by adding at the end the following new subsection:

"(v) Notwithstanding section 202 of this title, the insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be the obligation of the General Insurance Fund created pursuant to section 519 of this title. The provisions of subsections (a) through (h), (j), and (k) of section 204 shall apply to such mortgages, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 204(f)(1) shall be retained by the Secretary and credited to the General Insurance Fund.".

<< 12 USCA § 1735c >>

(2) GENERAL INSURANCE FUND.—Section 519(e) of the National Housing Act (12 U.S.C. 1735c(e)) is amended by inserting after "203(b)" the following: "(except as provided in section 203(v))".

<< 12 USCA § 1709 NOTE >>

(3) MORTGAGE INSURANCE TRANSITION PREMIUMS.—The matter preceding paragraph (1) in section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended by inserting "or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act" after "Fund".

<< 42 USCA § 1437a >>

(4) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by inserting "or (y) or paying rent under section 8(c)(3)(B)" after "section 8(o)".

<< 42 USCA § 12898a >>

SEC. 186. ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term "home" means any 1– to 4–family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding $15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3–year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) PROGRAM SCHEDULE.—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) LOCATION.—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) SALES CONTRACTS.—Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) PROGRAM SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(i) FUNDING.—There are authorized to be appropriated to carry out this section $30,000,000 in each of fiscal years 1993 and 1994.

Subtitle F—Implementation

<< 42 USCA § 1437a NOTE >>

SEC. 191. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE II—HOME INVESTMENT PARTNERSHIPS

<< 42 USCA § 12724 >>

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12724) is amended to read as follows:

"SEC. 205. AUTHORIZATION.

"There are authorized to be appropriated to carry out this title $2,086,000,000 for fiscal year 1993, and $2,173,612,000 for fiscal year 1994, of which—

"(1) not more than $14,000,000 for fiscal year 1993, and $14,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

"(2) not more than $11,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.".

SEC. 202. HOME PROGRAM THRESHOLDS.

<< 42 USCA § 12746 >>

(a) PARTICIPATING JURISDICTIONS.—Section 216 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12746) is amended—

(1) in paragraph (3), by striking "A jurisdiction" and inserting "Except as provided in paragraph (10), a jurisdiction";

(2) in paragraph (9)(B), by inserting ", except as provided in paragraph (10)" after "in any 1 year"; and

(3) by adding at the end the following:

"(10) THRESHOLD REDUCTION.—If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year—

"(A) by substituting '$500,000' for '$750,000' both places it appears in paragraph (3); and

"(B) by substituting '$500,000', '$410,000', and '$335,000' for '$750,000', '$625,000', and '$500,000', respectively, where they appear in paragraph (9).".

<< 42 USCA § 12747 >>

(b) SUPPLEMENTAL ALLOCATION.—Section 217(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)) is amended—

(1) in paragraph (3), by inserting ", except as provided in paragraph (4)" before the period at the end of the second sentence; and

(2) by adding at the end the following:

"(4) THRESHOLD REDUCTION.—If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year by substituting '$335,000' for '$500,000' where it appears in paragraph (3).".

<< 42 USCA § 12746 NOTE >>

(c) APPLICABILITY.—Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston–Gonzalez National Affordable Housing Act, as amended by this section, shall apply.

SEC. 203. ELIMINATION OF RESTRICTIONS ON NEW CONSTRUCTION.

<< 42 USCA § 12742 >>

(a) ELIGIBLE USES OF INVESTMENT.—Section 212(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended—

(1) in the last sentence of paragraph (2), by striking "under paragraph (3) of this subsection or";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

<< 42 USCA § 12747 >>

(b) FORMULA ALLOCATION.—Section 217(b)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (D), by striking "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)" and inserting "The basic formula established under subparagraph (A)";

(3) in subparagraph (E), by striking "formulas in subparagraph (B)" and inserting "formula in subparagraph (A)";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(B) by striking the second sentence;

(5) in subparagraph (G), by striking "formulas in subparagraphs (A) and (B)" and inserting "formula in subparagraph (A)"; and

(6) by redesignating subparagraphs (B) through (G) (as amended by this paragraph) as subparagraphs (A) through (F), respectively.

<< 42 USCA § 12748 >>

(c) CONFORMING AMENDMENT.—Section 218(g) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) is amended by striking "Except as provided in section 217(b)(1)(A)(ii), if" and inserting "If".

<< 42 USCA § 12742 >>

SEC. 204. POLICIES AND PREFERENCE RULES; USE OF TENANT–BASED RENTAL ASSISTANCE AMOUNTS FOR SECURITY DEPOSITS.

(a) POLICIES AND PREFERENCE RULES.—Section 212(a)(3) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)), as so redesignated by section 203(a)(3) of this Act, is amended by adding at the end the following:

"(E) SECURITY DEPOSIT ASSISTANCE.—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.".

(b) SECURITY DEPOSITS.—Section 212(a)(3)(A) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(4)(A)), as so redesignated by section 203(a)(3) of this Act, is amended by striking clause (ii) and inserting the following:

"(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.".

<< 42 USCA § 12742 >>

SEC. 205. USE OF HOME FUNDS FOR HOMELESS ASSISTANCE.

Section 212(a)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by adding at the end the following: "For the purpose of this subtitle, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.".

<< 42 USCA § 12742 >>

SEC. 206. PER UNIT COST LIMITS.

Section 212(d)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(1)) is amended by inserting after the first sentence the following: "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs.".

SEC. 207. ADMINISTRATIVE COSTS AS ELIGIBLE USE OF INVESTMENT.

<< 42 USCA § 12742 >>

(a) HOUSING USES.—Section 212(a)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by inserting after "organizations," the following: "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations,".

(b) ELIGIBLE USE.—Section 212 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended—

(1) in subsection (c)(1), by inserting "that exceed the amount specified under subsection (c)" before the comma at the end;

(2) by redesignating subsections (c), (d) (as amended by the preceding provisions of this Act), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following:

"(c) ADMINISTRATIVE COSTS.—In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this subtitle to the jurisdiction for such year for any administrative and planning costs of the

jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.”.

<< 42 USCA § 12750 >>

(c) RECOGNITION OF MATCH.—Section 220 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended—

(1) in subsection (b)(2), by striking “shall” and all that follows and inserting “may not be recognized for purposes of subsection (a).”; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

<< 42 USCA § 12742 >>

(d) LIMITATION ON ADMINISTRATIVE COSTS.—Section 212 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following:

“(g) LIMITATION ON OPERATING ASSISTANCE.—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.”.

<< 42 USCA § 12745 >>

SEC. 208. AFFORDABLE HOUSING.

(a) RENT CALCULATIONS.—Section 215(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended—

(1) in paragraph (1)(A) by striking “smaller and larger families” and inserting “number of bedrooms in the unit”;

(2) in paragraph (3), by adding at the end the following: “The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986.”; and

(3) in the second sentence of paragraph (3), by striking “not less than” and inserting “the lesser of the amount payable by the tenant under State or local law or”.

(b) EXCEPTION TO TERMINATION RULE.—Section 215(a)(1)(E) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)(1)(E)) is amended by inserting after “Act” the following: “, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary”.

<< 42 USCA § 12745 >>

SEC. 209. HOMEOWNERSHIP RESALE RESTRICTIONS.

Section 215(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (4) and inserting the following:

“(4) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

“(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

“(i) provide the owner with a fair return on investment, including any improvements, and

“(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

"(B) recapture the investment provided under this title in order to assist other persons in accordance with the requirements of this subsection, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and".

SEC. 210. MATCHING REQUIREMENTS.

<< 42 USCA § 12750 >>

(a) TIERED CONTRIBUTION.—Section 220(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" and inserting a comma;

(B) by inserting "and substantial rehabilitation" after "rehabilitation"; and

(C) by inserting "and" after the semicolon;

(2) in paragraph (2)—

(A) by striking "33" and inserting "30"; and

(B) by striking "substantial rehabilitation; and" and inserting "new construction.";

(3) by striking paragraph (3); and

(4) in the matter preceding paragraph (1), by striking "affordable housing assisted under this title" and inserting "housing that qualifies as affordable housing under this title".

(b) FORM.—Section 220(c) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12750(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) up to—

"(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

"(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed,

but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

"(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

"(8) such other contributions to affordable housing as the Secretary considers appropriate.".

(c) REDUCTION OF REQUIREMENT.—Section 220 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended by striking subsection (d) and inserting:

"(d) REDUCTION OF REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

"(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

"(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

"(2) DEFINITIONS.—For purposes of this section—

"(A) 'fiscal distress' means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

"(B) 'severe fiscal distress' means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

"(3) DISTRESS CRITERIA.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

"(A) POVERTY RATE.—The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

"(B) PER CAPITA INCOME.—The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

"(4) STATES.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

"(5) WAIVER IN DISASTER AREAS.—If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.".

<< 42 USCA § 12750 NOTE >>

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to fiscal year 1993 and each fiscal year thereafter.

SEC. 211. ASSISTANCE FOR INSULAR AREAS.

(a) REPEAL OF AMENDMENTS MADE BY PUBLIC LAW 102–230.—

<< 42 USCA § 12704 >>

(1) DEFINITIONS.—Section 104 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended to read as if the amendments made by section 2 of Public Law 102–230 (105 Stat. 1720) had not been enacted.

<< 42 USCA § 12747 >>

(2) ALLOCATION OF RESOURCES.—Section 217(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(A) by striking the first sentence of paragraph (1) and inserting the following: "After reserving amounts under paragraph (2) for Indian tribes and after reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b).";

(B) by striking paragraph (3) (as added by Public Law 102–229; 105 Stat. 1709);

(C) by striking paragraph (3) (as added by Public Law 102–230; 105 Stat. 1720); and

(D) by adding after paragraph (2) the following:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.".

<< 42 USCA § 12747 NOTE >>

(3) EXPEDITED ISSUANCE OF REGULATION.—The regulation referred to in the amendment made by paragraph (2)(D) shall take effect not later than the expiration of the 90–day period beginning on the date of the enactment of this Act. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act.

<< 42 USCA §§ 12704 NOTE, 12747 nt >>

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 1993 and thereafter.

SEC. 212. COMMUNITY HOUSING PRODUCTION SET–ASIDE.

<< 42 USCA § 12771 >>

(a) EXTENSION OF PERIOD.—Section 231 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended by striking "18 months" each place it appears in subsections (a) and (b) and inserting "24 months".

(b) ALLOCATION FOR USE BY NONPROFIT ORGANIZATION.—Section 231(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12771(a)) is amended by inserting after the second sentence the following: "If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed $150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction.".

<< 42 USCA § 12774 >>

(c) OTHER REQUIREMENTS.—Section 234(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12774(b)) is amended—

(1) by striking ", together with other Federal assistance,"; and

(2) by inserting before the period the following: "or $50,000 annually, whichever is greater".

<< 42 USCA § 12773 >>

SEC. 213. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT FOR COMMUNITY LAND TRUSTS.

(a) COMMUNITY LAND TRUSTS.—Section 233 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12773) is amended—

(1) in subsection (a)(2), by inserting ", including community land trusts," after "organizations";

(2) in subsection (b), by adding at the end the following:

"(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts."; and

(3) by adding at the end the following:

"(f) DEFINITION OF COMMUNITY LAND TRUST.—For purposes of this section, the term 'community land trust' means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 104(6) shall not apply for purposes of this subsection)—

"(1) that is not sponsored by a for-profit organization;

"(2) that is established to carry out the activities under paragraph (3);

"(3) that—

"(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

"(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

"(5) whose board of directors—

"(A) includes a majority of members who are elected by the corporate membership; and

"(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.".

(b) WOMEN IN HOMEBUILDING.—Section 233 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12773), as amended by subsection (a) of this section, is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.".

(2) in subsection (b), by adding after paragraph (6) (as added by subsection (a)(2) of this section) the following:

"(7) FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as 'nontraditional occupations').";

(3) in subsection (c)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or"; and

(4) by adding at the end of subsection (e) the following: "The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.".

<< 42 USCA § 12782 >>

SEC. 214. LAND BANK REDEVELOPMENT.

(a) PRIORITIES FOR CAPACITY DEVELOPMENT.—Section 242 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12782) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this title.".

<< 42 USCA § 12784 >>

SEC. 215. RESEARCH IN PROVIDING AFFORDABLE HOUSING THROUGH INNOVATIVE BUILDING TECHNIQUES AND TECHNOLOGY.

The second sentence of section 244 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12784) is amended by inserting before the period at the end the following: ", through the use of cost-saving innovative building technology and construction techniques".

<< 42 USCA § 12810 >>

SEC. 216. USE OF INNOVATIVE BUILDING TECHNOLOGIES TO PROVIDE COST–SAVING HOUSING OPPORTUNITIES.

Subtitle D of title II of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12801 et seq.) is amended by adding at the end the following:

"SEC. 260. COST–SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.

"(a) IN GENERAL.—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title.

"(b) SELECTION CRITERIA.—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

"(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

"(2) the extent to which innovative, cost-saving construction techniques are utilized;

"(3) the extent to which units will be made available to low-income families and individuals;

"(4) the extent to which non-Federal public or private assistance is utilized; and

"(5) any other factor, determined by the Secretary to be appropriate.

"(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.

"(d) REPORT.—The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.".

SEC. 217. DEFINITION OF COMMUNITY HOUSING DEVELOPMENT ORGANIZATION.

<< 42 USCA § 12704 >>

(a) IN GENERAL.—Section 104(6) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12704(6)) is amended by adding at the end the following new flush material:

"In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization's governing board low-income persons residing in each county served.".

<< 42 USCA § 12704 NOTE >>

(b) TRANSITION RULE.—For the purposes of determining compliance with the requirements of section 104(6) of the Cranston–Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act or September 30, 1993, whichever is sooner.

<< 42 USCA § 12704 >>

SEC. 218. INCLUSION OF ECHO HOUSING IN DEFINITION OF HOUSING.

Section 104(8) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12704(8)) is amended by inserting before the period at the end the following: "and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1– to 4–family dwellings".

<< 42 USCA § 12704 >>

SEC. 219. ELIGIBILITY OF MANUFACTURED HOME OWNERS AS FIRST–TIME HOMEBUYERS.

Section 104(14) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12704(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3–year period, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure."

<< 42 USCA § 12705 >>

SEC. 220. ELIGIBILITY FOR ASSISTANCE AND CONTENTS OF STRATEGIES.

(a) HOMELESSNESS INFORMATION.—Section 105(b)(2) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(2)) is amended—

(1) by inserting ", including rural homelessness," after "homelessness" the first place it appears; and

(2) by inserting "including tabular representation of such information," after "with homelessness,".

(b) ANTIDISPLACEMENT PLAN AND ANTIPOVERTY STRATEGY.—Section 105(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by striking paragraph (14) and inserting the following:

"(14) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;".

(2) in paragraph (15), by striking the period at the end and inserting "; and" and

(3) by adding at the end the following:

"(16) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and".

(c) LINKAGE BETWEEN HOUSING NEED AND ALLOCATION OF HOUSING RESOURCES.—Section 105(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating paragraphs (8) through (16) as paragraphs (9) through (17), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;".

<< 42 USCA § 12748 >>

SEC. 221. LOCATION OF ACTIVITIES.

Section 218(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12748a) is amended by inserting after "boundaries" the following: "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions".

<< 42 USCA § 12704 NOTE >>

SEC. 222. REGULATIONS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

<< 42 USCA § 12704 NOTE >>

SEC. 223. RETROACTIVE APPLICATION OF HOME AMENDMENTS.

The amendments made by this title shall apply to unexpended funds allocated under title II of the Cranston–Gonzalez National Affordable Housing Act in fiscal year 1992, except as otherwise specifically provided.

TITLE III—PRESERVATION OF LOW–INCOME HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

<< 12 USCA § 4124 >>

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 234 of the Housing and Community Development Act of 1987 (12 U.S.C. 4124) is amended to read as follows:

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle $638,252,784 for fiscal year 1993 and $665,059,401 for fiscal year 1994.
"(b) GRANTS.—Subject to approval in appropriation Acts, not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1993, and not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1994, shall be available for grants under section 221(d)(2).".

<< 12 USCA § 4103 >>

SEC. 302. GUIDELINES FOR APPRAISALS OF PRESERVATION VALUE.

The first sentence of section 213(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4103(c)) is amended by inserting before "and costs" the following: "simultaneous termination of any Federal rental assistance,".

<< 12 USCA § 4106 >>

SEC. 303. SECOND NOTICE OF INTENT.

Section 216(d) of the Housing and Community Development Act of 1987 (12 U.S.C. 4106(d)) is amended by adding at the end the following new paragraph:

"(3) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.".

<< 12 USCA § 4107 >>

SEC. 304. PLAN OF ACTION.

(a) SUPPORTING DOCUMENTATION REGARDING PLAN OF ACTION.—Section 217(a)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(a)(2)) is amended by inserting after the second sentence the following new sentence: "Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information.".

(b) SUPPORTING DOCUMENTATION REGARDING REVISIONS.—Section 217(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(c)) is amended in the second sentence by inserting before the period the following: "and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information".

<< 12 USCA § 4108 >>

SEC. 305. APPROVAL OF PLAN OF ACTION.

Section 218 of the Housing and Community Development Act of 1987 (12 U.S.C. 4108) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) STANDARDS AND PROCEDURE FOR WRITTEN FINDINGS.—

"(1) STANDARDS.—A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

"(2) PROCEDURE AND CRITERIA.—The Secretary shall, by regulation, develop (A) a procedure for determining whether the conditions under paragraphs (1) and (2) of subsection (a) exist, (B) requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.".

<< 12 USCA § 4109 >>

SEC. 306. RECEIPT OF INCENTIVES TO EXTEND LOW–INCOME USE.

Section 219(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4109(a)) is amended—

(1) in the first sentence, by inserting after "receive" the following: "(for each year after the approval of the plan of action)"; and

(2) by adding at the end the following new sentence: "The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 214(a) during the period in which rent increases are phased in as provided in section 222(a)(2)(E), including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 (pursuant to subsection (b)(2) of this section).".

<< 12 USCA § 4110 >>

SEC. 307. TRANSFER TO QUALIFIED PURCHASERS.

(a) ELIGIBILITY FOR ASSISTANCE.—The matter preceding subparagraph (A) in section 220(d)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)) is amended by inserting after "purchasers" the following: "(including all priority purchasers other than resident councils acquiring under the homeownership program authorized by section 226)".

(b) PROJECT OVERSIGHT.—Section 220(d)(2)(D) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(D)) is amended by inserting before the semicolon the following: ", and in the case of a priority purchaser, meet project oversight costs".

(c) RETURN.—Section 220(d)(2)(E) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(E)) is amended to read as follows:

"(E) receive a distribution equal to an 8 percent annual return on any actual cash investment (from sources other than assistance provided under this title) made to acquire or rehabilitate the project;".

(d) REIMBURSEMENT.—Section 220(d)(2)(F) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(F)) is amended to read as follows:

"(F) in the case of a priority purchaser, receive a reimbursement of all reasonable transaction expenses associated with the acquisition, loan closing, and implementation of an approved plan of action; and".

(e) INCENTIVES.—Section 220(d)(3)(A) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(3)(A)) is amended by striking "any residual receipts" and all that follows through "(b) or (c) and".

<< 12 USCA § 4112 >>

SEC. 308. CRITERIA FOR PLAN OF ACTION INVOLVING INCENTIVES.

(a) ELIMINATION OF WINDFALL PROFITS TEST.—Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 4112) is amended by striking subsection (e).

(b) RENT ADJUSTMENTS.—Section 222(a)(2)(G)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4112(a)(2)(G)(i)) is amended by striking "by making changes in the annual authorized return under section 214" and inserting the following: ", where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs".

<< 12 USCA § 4116 >>

SEC. 309. RESIDENT HOMEOWNERSHIP PROGRAM.

Section 226(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4116(b)) is amended—

(1) in paragraph (2)—

(A) by inserting "AND LIMITATION ON CONDITIONS OF APPROVAL" before the period at the end of the paragraph heading; and

(B) by inserting after the period at the end the following new sentence: "The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeownership program for the housing.";

(2) in paragraph (3)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) the low-income affordability restrictions shall continue to apply to any rental units in the housing for any period during which such units remain rental units.";

(3) in paragraph (8), by striking "Resident" and inserting "Except in the case of limited equity cooperatives, resident"; and

(4) in paragraph (10)—

(A) by striking ", as determined by the Secretary,";

(B) by striking "section 222(d)" and inserting "section 222(c)"; and

(C) by striking the last sentence.

<< 12 USCA § 4119 >>

SEC. 310. DEFINITION OF ELIGIBLE LOW–INCOME HOUSING.

Section 229(1)(A)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4119(1)(A)(i)) is amended by striking "assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937" and inserting "receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965".

<< 12 USCA § 4122 >>

SEC. 311. PREEMPTION OF STATE AND LOCAL LAWS.

The first sentence of section 232(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4122(b)) is amended by striking "and" the first place it appears and inserting ", such as any law or regulation".

SEC. 312. TECHNICAL ASSISTANCE AND CAPACITY BUILDING.

Title II of the Housing and Community Development Act of 1987 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new subtitle:

<< 12 USCA Ch. 41 >>

"Subtitle C—Technical Assistance and Capacity Building

<< 12 USCA § 4141 >>

"SEC. 251. AUTHORITY.

"The Secretary of Housing and Urban Development may provide technical assistance and capacity building to further the preservation program established under this title.

<< 12 USCA § 4142 >>

"SEC. 252. PURPOSES.

"The purposes of this subtitle are—

"(1) to promote the ability of residents of eligible low-income housing to meaningfully participate in the preservation process established by this title and affect decisions about the future of their housing;

"(2) to promote the ability of community-based nonprofit housing developers and resident councils to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low- and moderate-income people; and

"(3) to assist the Secretary in discharging the obligation under section 220 to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the coordination and oversight of the preservation program established under this title.

<< 12 USCA § 4143 >>

"SEC. 253. GRANTS FOR BUILDING RESIDENT CAPACITY AND FUNDING PREDEVELOPMENT COSTS.

"(a) IN GENERAL.—Assistance made available under this section shall be used for direct assistance grants to resident organizations and community-based nonprofit housing developers and resident councils to assist the acquisition of specific projects (including the payment of reasonable administrative expenses to participating intermediaries).

"(b) ALLOCATION.—30 percent of the assistance made available under this section shall be used for resident capacity grants in accordance with subsection (d). The remainder shall be used for predevelopment grants in connection with specific projects in accordance with subsection (e).

"(c) LIMITATION ON GRANT AMOUNTS.—A resident capacity grant under subsection (d) may not exceed $30,000 per project and a grant under subsection (e) for predevelopment costs may not exceed $200,000 per project, exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

"(d) RESIDENT CAPACITY GRANTS.—

"(1) USE.—Resident capacity grants under this subsection shall be available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization or council, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization or council.

"(2) ELIGIBLE HOUSING.—Grants under this subsection may be provided with respect to eligible low-income housing for which the owner has filed a notice of intent under subtitle B of this title or title II of the Emergency Low Income Housing Preservation Act of 1987 (pursuant to section 604 of the Cranston–Gonzalez National Affordable Housing Act).

"(e) PREDEVELOPMENT GRANTS.—

"(1) USE.—Predevelopment grants under this subsection shall be made available to community-based nonprofit housing developers and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees, and sponsor's staff and overhead costs.

"(2) ELIGIBLE HOUSING.—Such grants may only be made available with respect to any eligible low-income housing project for which the owner has filed an initial notice of intent to transfer the housing to a qualified purchaser in accordance with section 220 of this title, or has filed a notice of intent and entered into a binding agreement to sell the housing to a resident organization or nonprofit organization.

"(3) PHASE–IN OF GRANT PAYMENTS.—Grant payments under this subsection shall be made in phases, based on performance benchmarks established by the Secretary in consultation with intermediaries selected under section 255(b).

"(f) GRANT APPLICATIONS.—Grant applications for assistance under subsections (d) and (e) shall be received monthly on a rolling basis and approved or rejected on at least a quarterly basis by intermediaries selected under section 255(b).

"(g) APPEAL.—If an application for assistance under subsections (d) or (e) is denied, the applicant shall have the right to appeal the denial to the Secretary and receive a binding determination within 30 days of the appeal.

<< 12 USCA § 4144 >>

"SEC. 254. GRANTS FOR OTHER PURPOSES.

"The Secretary may provide grants under this subtitle—

"(1) to resident-controlled or community-based nonprofit organizations with experience in resident education and organizing for the purpose of conducting community, city or county wide outreach and training programs to identify and organize residents of eligible low-income housing; and

"(2) to State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities as the Secretary deems appropriate to further the preservation program established under this title.

<< 12 USCA § 4145 >>

"SEC. 255. DELIVERY OF ASSISTANCE THROUGH INTERMEDIARIES.

"(a) IN GENERAL.—The Secretary shall approve and disburse assistance under section 253 through eligible intermediaries selected by the Secretary under subsection (b). If the Secretary does not receive an acceptable proposal from an intermediary offering to administer assistance under this section in a given State, the Secretary shall administer the program in such State directly.

"(b) SELECTION OF ELIGIBLE INTERMEDIARIES.—

"(1) IN GENERAL.—The Secretary shall develop criteria to select eligible intermediaries, through a competitive process, to administer assistance under this subtitle. The process shall include provision for a reasonable administrative fee.

"(2) PRIORITY.—With respect to all forms of grants available under section 253, such criteria shall give priority to applications from eligible intermediaries with demonstrated expertise or experience with the program established under this title or under the Emergency Low Income Housing Preservation Act of 1987.

"(3) CRITERIA.—The criteria developed under this subsection shall—

"(A) not assign any preference or priority to applications from eligible intermediaries based on their previous participation in administering or receiving Federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature);

"(B) require an applicant to prepare a proposal that demonstrates adequate staffing, qualifications, prior experience, and a plan for participation; and

"(C) permit an applicant to serve as the administrator of assistance made available under section 253(d) or (e), based on the applicant's suitability and interest.

"(4) GEOGRAPHIC COVERAGE.—The Secretary may select more than 1 State or regional intermediary for a single State or region. The number of intermediaries chosen for each State or region may be based on the number of eligible low-income housing projects in the State or region, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program.

"(5) NATIONAL NONPROFIT INTERMEDIARIES.—National nonprofit intermediaries shall be selected to administer the assistance made available under section 253 only with respect to States or regions for which no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate.

"(6) PREFERENCE.—With respect to assistance made available under section 254, preference shall be given to eligible regional, State, and local intermediaries, over national nonprofit organizations.

"(c) CONFLICTS OF INTEREST.—Eligible intermediaries selected under subsection (b) to disburse assistance under section 253 shall certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Selected intermediaries shall—

"(1) establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary; and

"(2) receive a reasonable administrative fee, except that they may not provide other services to grant recipients with respect to projects that are the subject of the grant application and may not receive payment, directly or indirectly, from the proceeds of grants they have approved.

"(d) DEFINITION OF ELIGIBLE INTERMEDIARIES.—For purposes of this section, the term 'eligible intermediary' means a State, regional, or national organization (including a quasi-public organization) or a State or local housing agency that—

"(1) has as a central purpose the preservation of existing affordable housing and the prevention of displacement;

"(2) does not receive direct Federal appropriations for operating support;

"(3) in the case of a national nonprofit organization, has been in existence for at least 5 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) in the case of a regional or State nonprofit organization, has been in existence for at least 3 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

"(5) has a record of service to low-income individuals or community-based nonprofit housing developers in multiple communities and, with respect to intermediaries administering assistance under section 253, has experience with the allocation or administration of grant or loan funds; and

"(6) meets standards of fiscal responsibility established by the Secretary.

<< 12 USCA § 4146 >>

"SEC. 256. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'community-based nonprofit housing developer' means a nonprofit community development corporation that—

"(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(B) has been in existence for at least 2 years prior to the date of the grant application;

"(C) has a record of service to low- and moderate-income people in the community in which the project is located;

"(D) is organized at the neighborhood, city, county or multi-county level; and

"(E) in the case of a corporation acquiring eligible housing under subtitle B of this title, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subtitle and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

"(2) the terms 'eligible low-income housing', 'nonprofit organization', 'owner', and 'resident council' have the meanings given such terms in section 229.

<< 12 USCA § 4147 >>

"SEC. 257. FUNDING.

"The Secretary shall use not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1993, and not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1994, to carry out this subtitle. Of any amounts made available to carry out this subtitle in any appropriation Act, 90 percent shall be set aside for use in accordance with section 253 and 10 percent shall be set aside for use in accordance with subsection 254.".

<< 12 USCA § 4101 NOTE >>

SEC. 313. TRANSITION PROVISIONS.

(a) EFFECT OF ELECTION.—Section 604(a) of the Cranston–Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following sentence: "An owner that elects to be subject to the provisions of the Emergency Low Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low–Income Housing Preservation and Resident Homeownership Act of 1990.".

(b) CHANGES TO PROVISIONS OF 1987 ACT.—Section 604(c) of the Cranston–Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following new sentence: "With respect to housing for which such an election is made—

"(1) in making incentives under section 224 of such Act available to such housing, the Secretary—

"(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

"(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

"(2) the provisions of section 233(1)(A)(i) of such Act shall not apply, and the term 'eligible low income housing' shall, for purposes of such Act, shall include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965.".

<< 12 USCA § 4101 NOTE >>

SEC. 314. CONDITIONS OF ASSISTANCE.

(a) ELIHPA OF 1987.—The Secretary may not require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low income

housing under the provisions of the Emergency Low Income Housing Preservation Act of 1987, and may not provide any preference or priority for such assistance for any applicant based on participation in such a program.

(b) LIHPRHA OF 1990.—The Secretary may require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low-income housing under this title, and may provide preference or priority for such assistance for applicants based on participation in such a program, but only if the program is made available on a nationwide basis not later than March 1, 1993.

<< 12 USCA § 4117 NOTE >>

SEC. 315. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston–Gonzalez National Affordable Housing Act) not later than the expiration of the 30–day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60–day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

SEC. 316. INSURANCE FOR SECOND MORTGAGE FINANCING.

<< 12 USCA § 1715z–6 >>

(a) TERMS.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z–6(f)) is amended—

(1) in paragraph (2)(B)(i), by inserting after "equal to" the following: "the amount of rehabilitation costs required by the plan of action and related charges and";

(2) in paragraph (3)(B), by inserting after "1990" the following: "and the amount of rehabilitation costs required by the plan of action and related charges and";

(3) in paragraph (5)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by striking subparagraph (A) and inserting the following new subparagraphs:

"(A)(i) in the case of equity loans, have a term not to exceed 40 years and amortization provisions which will, to the extent practicable, support the loan amount authorized under paragraph (2)(B); and

"(ii) in the case of acquisition loans, have a term of not less than 40 years; and

"(B) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee and be secured in such manner as the Secretary may require; and";

(4) by striking paragraph (6); and

(5) by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively.

(b) RENEGOTIATION.—Section 241(f) of the National Housing Act (12 U.S.C. 17z–6(f)) is amended by adding at the end the following new paragraph:

"(10) The Secretary shall renegotiate and modify the terms of an equity loan insured under this subsection, at the request of the owner of the project for which the loan is made, if—

"(1) the loan was made during the period beginning 30 days before the date of the enactment of the Housing and Community Development Act of 1992 and ending 90 days after such date of enactment under this subsection; and

"(2) the loan was made pursuant to a plan of action under the provisions of the Emergency Low Income Housing Preservation Act of 1987 and accepted by the Secretary for processing in December 1991.".

<< 12 USCA § 1715z–6 NOTE >>

(c) REGULATIONS.—Not later than the expiration of the 45–day period beginning on the date of the enactment of this Act, the Secretary shall issue regulations implementing section 241(f)(1) of the National Housing Act. The regulations shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.

SEC. 317. TECHNICAL AMENDMENTS.

(a) LOW–INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The Housing and Community Development Act of 1987 (12 U.S.C. 4101 et seq.) is amended—

<< 12 USCA § 4105 >>

(1) in section 215(a)(2), by inserting “Housing” after “United States”;

<< 12 USCA § 4106 >>

(2) in section 216(b)(4), by striking “exceeds” and inserting “exceed”;

<< 12 USCA § 4111 >>

(3) in the second sentence of section 221(c), by striking “that” and inserting “than”;

<< 12 USCA § 4112 >>

(4) in section 222—
(A) in subsection (a)(2)(A), by striking “low income” and inserting “low-income”;
(B) in subsection (c)(2), by striking “an hearing” and inserting “a hearing”;
(C) in subsection (d)(2)(B), by inserting “the” after “that”; and
(D) in subsection (d)(2)(C)(ii), by inserting “in” before “default”;

<< 12 USCA § 4119 >>

(5) in section 229(11)(A), by striking “resident” and inserting “residents”; and

<< 12 USCA § 4121 >>

(6) in section 231(b), by striking “section 222(d)” and inserting “section 222(c)”.

<< 12 USCA § 4125 >>

(b) CRANSTON–GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 613(b)(2) of the Cranston–Gonzalez National Affordable Housing Act (12 U.S.C. 4125(b)(2)) is amended by striking “section 224(e)” and inserting “section 222(d)”.

<< 12 USCA § 1715z–6 >>

(c) NATIONAL HOUSING ACT.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z–6(f)) is amended—
(1) in paragraph (2)(B)(ii), by striking “and” at the end; and
(2) in paragraph (7), by striking “acquisiton loan” and inserting “acquisition loan”.

<< 12 USCA § 4109 NOTE >>

SEC. 318. STUDY OF PROJECTS ASSISTED UNDER FLEXIBLE SUBSIDY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of housing projects that (1) are assisted under section 236 of the National Housing Act or the proviso of section 221(d)(5) of such Act, and (2) have received or are receiving assistance under section 201 of the Housing and Community Development Amendments of 1978, to determine the cost of providing such projects with incentives under the Low–Income Housing Preservation and Resident Homeownership Act of 1990. The study shall examine any projects portions of which assisted under such section 236 that are assisted primarily by State agencies.

(b) REPORT.—The Secretary shall submit a report to the Congress regarding any findings and conclusions of the study under subsection (a) not later than the expiration of the 1–year period beginning on the date of the enactment of this Act.

Subtitle B—Other Preservation Provisions

<< 12 USCA § 1715z–1 >>

SEC. 331. ELIGIBILITY OF PUBLIC MORTGAGORS FOR SECTION 236 MORTGAGE INSURANCE.

Section 236(j)(4)(A) of the National Housing Act (12 U.S.C. 1715z–1(j)(4)(A)) is amended by striking “private”.

<< 12 USCA § 4101 NOTE >>

SEC. 332. REGULATIONS.

Except as otherwise provided in this title, the Secretary of Housing and Urban Development shall issue interim regulations implementing this title and the amendments made by this title not later than the expiration of the 90–day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing this title and the amendments made by this title after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60–day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

<< 12 USCA § 1715z–1a NOTE >>

SEC. 401. DEFINITIONS.

For purposes of this title:

(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term “covered multifamily housing property” means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston–Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low–Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston–Gonzalez National Affordable Housing Act); or

(iii) the HOME Investment Partnerships Act.

(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term "covered multifamily housing property for the elderly" means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

<< 12 USCA § 1715z–1a NOTE >>

SEC. 402. REQUIRED SUBMISSION.

(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title.

(b) TIMING.—The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties, and the owners of approximately one-third of the aggregate number of covered multifamily housing properties for the elderly, to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

<< 12 USCA § 1715z–1a NOTE >>

SEC. 403. CONTENTS.

(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

<< 12 USCA § 1715z–1a NOTE >>

SEC. 404. SUBMISSION AND REVIEW.

(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) REVIEW.—The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90–day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed $5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) NOTICE.—The Secretary shall immediately notify each owner submitting a comprehensive needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subsection (d)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston–Gonzalez National Affordable Housing Act.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

<< 12 USCA § 1715z–1a >>

SEC. 405. TROUBLED MULTIFAMILY HOUSING.

(a) MANDATORY ELEMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(d)) is amended—

(1) in paragraph (5), by striking “and”;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

“(8) the project has a feasible plan to involve the residents in project decisions;

“(9) the affirmative fair housing marketing plan meets applicable requirements; and

“(10) the owner certifies that it will comply with various equal opportunity statutes.”.

(b) SELECTION CRITERIA.—

(1) REPEAL OF SECTION 201(k)(4).—Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(4)) is repealed.

(2) NEW CRITERIA.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

"(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

"(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

"(B) The extent to which the project is financially troubled.

"(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992.

"(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

"(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

"(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

"(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.".

(c) LOW–INCOME AFFORDABILITY RESTRICTIONS.—Section 201(1)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(1)(2)(D)) is amended by adding at the end the following: "The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term 'remaining useful life' means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.".

(d) EXCLUSIVITY OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(o) Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low–Income Housing Preservation Act of 1987 or the Low–Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.".

(e) OWNER CONTRIBUTIONS.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) in subparagraph (B), by striking "and";

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the Secretary shall give owners credit for advances made to the project during a 3–year period prior to the application for assistance.".

(f) COORDINATION OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.".

<< 12 USCA § 1715z–1a >>

SEC. 406. FLEXIBLE SUBSIDY PROGRAM.

Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(d)(6)) is amended by inserting before the period at the end the following: "; and except that the Secretary shall review and approve or disapprove

each plan not later than the expiration of the 30–day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved".

<< 42 USCA § 12710 >>

SEC. 407. CAPACITY STUDY.

Section 110(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—
(1) by striking ", and"; and
(2) by striking the period at the end and inserting the following: ", and the ability to respond to areas identified as 'material weaknesses' by the Office of the Inspector General in financial audits or other reports.".

SEC. 408. FLEXIBLE SUBSIDY PROGRAM.

<< 12 USCA § 1715z–1a >>

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(j)(5)) is amended to read as follows:
"(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $52,200,000 for fiscal year 1993 and $54,392,400 for fiscal year 1994.".

<< 12 USCA § 1715z–1 >>

(b) USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDY PAYMENTS.—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z–1a(f)(3)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET

Subtitle A—FHA Mortgage Insurance Programs

<< 12 USCA § 1735f–9 >>

SEC. 501. LIMITATION ON INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f–9(b)) is amended to read as follows:
"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $65,905,824,960 during fiscal year 1993 and $68,673,868,600 during fiscal year 1994.".

<< 12 USCA § 1708 >>

SEC. 502. FEDERAL HOUSING ADMINISTRATION ADVISORY BOARD.

Section 202(b) of the National Housing Act (12 U.S.C. 1708(b)) is amended by adding at the end the following new paragraph:
"(11) The Board shall terminate on January 1, 1995.".

SEC. 503. MAXIMUM MORTGAGE AMOUNT.

<< 12 USCA § 1709 >>

(a) IN GENERAL.—The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of a 1–family residence, 95 percent of the median 1–family house price in the area, as determined by the Secretary; in the case of a 2–family residence, 107 percent of such median price; in the case of a 3–family residence, 130 percent of such median price; or in the case of a 4–family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of $25,000 but not in excess of $125,000; and

"(iii) 90 percent of such value in excess of $125,000.".

<< 12 USCA § 1709 NOTE >>

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only to mortgages executed on or after January 1, 1993.

(c) CONFORMING AMENDMENTS.—

<< 12 USCA § 1703 >>

(1) TITLE I—LOANS.—Notwithstanding any other provision of law, section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) $48,600 if made for the purpose of financing the purchase of a manufactured home;

"(D) $64,800 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and

"(E) $16,200 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan.".

<< 12 USCA § 1715z–20 >>

(2) HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "for a 1–family residence" and inserting "for 1–family residences in the area in which the dwelling subject to the mortgage under this section is located".

<< 12 USCA § 1441a >>

(3) RTC AFFORDABLE HOUSING PROGRAM.—Subparagraphs (D)(ii) and (G)(II) of section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: "$67,500 in the case of a 1–family residence, $76,000 in the case of a 2–family residence, $92,000 in the case of a 3–family residence, and $107,000 in the case of a 4–family residence".

<< 12 USCA § 1831q >>

(4) FDIC AFFORDABLE HOUSING PROGRAM.—Paragraphs (4)(B) and (7)(B) of section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) are each amended to read as follows:

"(B) that has an appraised value that does not exceed the amount provided in section 203(b)(2)(A) of the National Housing Act except that such amount shall not exceed $101,250 in the case of a 1–family residence, $114,000 in the case of a 2–family residence, $138,000 in the case of a 3–family residence, and $160,000 in the case of a 4–family residence."

(d) GAO STUDY ON FHA LOAN LIMITS AND GSE CONFORMING LOAN LIMITS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, on or before September 1, 1993, a report which evaluates the methodology used to establish the annual conforming loan limits for the secondary market, pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, as well as the loan limits adjustments utilized under the single family mortgage insurance program under section 203 of the National Housing Act.

(2) CONTENTS.—The report shall—

(A) evaluate the methodology used to determine the annual adjustment to the conforming loan limit, including the accuracy of using the Mortgage Interest Rate Survey (MIRS) in determining the median home sales price each year;

(B) recommend any legislative or administrative changes to ensure that the conforming loan limits accurately reflect market dynamics;

(C) assess the long-term consequences of indexing the mortgage limits utilized under the FHA section 203(b) single family mortgage insurance program to the annual adjustments to the conforming loan limits for the secondary market;

(D) assess the impact of such annual adjustments on the ability of the FHA single family insurance program to serve low and moderate income borrowers; and

(E) recommend alternative measures that could be employed to ensure that FHA can meet the needs of low and moderate income families in low and high cost areas of the country.

<< 12 USCA § 1709 >>

SEC. 504. FHA ANNUAL REPORT.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

"(v) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

"(1) an analysis of the income groups served by the single family insurance program, including—

"(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

"(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

"(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

"(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

"(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

"(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

<< 12 USCA § 1709 >>

SEC. 505. MAXIMUM PRINCIPAL OBLIGATION OF MORTGAGES FOR VETERANS.

(a) IN GENERAL.—The first sentence of the last undesignated paragraph of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "Notwithstanding any other provision of this paragraph," and inserting "Except with respect to mortgages executed by mortgagors who are veterans,".

(b) TECHNICAL AMENDMENT.—Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by striking "(except in a case to which the next to the last sentence of paragraph (2) applies)" and inserting "(except with respect to a mortgage executed by a mortgagor who is a veteran)".

SEC. 506. PREPURCHASE COUNSELING REQUIREMENT.

<< 12 USCA § 1709 >>

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.".

<< 12 USCA § 1709 NOTE >>

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mortgages for which commitments for insurance are issued after the expiration of the 12–month period beginning on the date of the enactment of this Act.

SEC. 507. AUTHORITY TO DECREASE INSURANCE PREMIUM CHARGES.

<< 12 USCA § 1709 >>

(a) PERMANENT PROVISIONS.—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(B) in clause (ii), by striking "equal to 0.55 percent" and inserting "not exceeding 0.55 percent".

<< 12 USCA § 1709 NOTE >>

(b) TRANSITION PROVISIONS.—Section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding".

SEC. 508. STATUTE OF LIMITATIONS ON PAYMENT OF DISTRIBUTIVE SHARES.

<< 12 USCA § 1711 >>

(a) DISTRIBUTION OF SHARES.—Section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) is amended by adding at the end the following two new sentences: "The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6–year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.".

<< 12 USCA § 1711 NOTE >>

(b) EXCEPTION.—Notwithstanding the 6–year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act, the Secretary shall distribute a share to an otherwise eligible mortgagor in

accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act in accordance with procedures in effect on such date.

SEC. 509. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

<< 12 USCA § 1713 >>

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—
(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and
(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

<< 12 USCA § 1715e >>

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—
(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and
(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

<< 12 USCA § 1715k >>

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—
(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and
(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

<< 12 USCA § 1715*l* >>

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(3)(ii)) is amended by striking "$28,032", "$32,321", "$38,979", "$49,893", "$55,583", "$29,500", "$33,816", "$41,120", "$53,195", and "$58,392" and inserting "$33,638", "$38,785", "$46,775", "$59,872", "$66,700", "$35,400", "$40,579", "$49,344", "$63,834", and "$70,070", respectively.
(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(4)(ii)) is amended by striking "$25,228", "$28,636", "$34,613", "$43,446", "$49,231", "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$30,274", "$34,363", "$41,536", "$52,135", "$59,077", "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively.

<< 12 USCA § 1715v >>

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—
(1) by striking "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300" and inserting "$28,782", "$32,176", "$38,423", "$46,238", and "$54,360", respectively; and
(2) by striking "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively.

<< 12 USCA § 1715y >>

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

<< 12 USCA § 1713 NOTE >>

(h) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g), which shall take effect not later than the expiration of the 1–year period beginning on the date of the enactment of this Act.

<< 12 USCA § 1441a >>

(i) CONFORMING AMENDMENTS.—Clauses (i)(II) and (ii)(II) of section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(E)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: ", for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms".

<< 12 USCA § 1715n >>

SEC. 510. INSURANCE OF LOANS FOR OPERATING LOSSES OF MULTI–FAMILY PROJECTS.

Section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)) is amended by adding at the end the following new paragraph:

"(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before the date of the enactment of the Housing and Community Development Act of 1992 and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.".

SEC. 511. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.

<< 12 USCA § 1715w >>

(a) PURPOSE.—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "either" and inserting "any"; and

(2) by adding at the end the following new paragraph:

"(3) The development of assisted living facilities for the care of frail elderly persons.".

(b) DEFINITIONS.—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'assisted living facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

"(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

"(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the

telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

"(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

"(7) the term 'frail elderly person' has the meaning given the term in section 802(k) of the Cranston–Gonzalez National Affordable Housing Act.".

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", assisted living facility," before "or intermediate care facility";

(B) by striking "combined nursing home and intermediate care facility" and inserting "any combination of nursing home, assisted living facility, and intermediate care facility"; and

(C) by inserting after "intermediate care facility" the first place it appears the following: ", including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated,";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act)," before "including";

(3) in paragraph (3), by adding at the end the following: "The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and

(4) in paragraph (4), by adding at the end the following new subparagraph:

"(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

"(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

"(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

"(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.".

(d) FIRE SAFETY EQUIPMENT.—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting ", assisted living facilities," after "nursing homes".

(e) ADMINISTRATION.—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

"(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.".

<< 12 USCA § 1715n >>

(f) AUTHORITY TO INSURE REFINANCING.—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting "existing assisted living facility," after "existing nursing home," each place it appears.

SEC. 512. EXPEDITING INSURANCE FOR ACQUISITION OF RESOLUTION TRUST CORPORATION PROPERTY.

<< 12 USCA § 1735f–12 >>

(a) IN GENERAL.—Section 534 of the National Housing Act (12 U.S.C. 1735f–12) is amended—

(1) by inserting "(a) STATE OFFICES.—" after "534."; and

(2) by adding at the end the following new subsection:

"(b) EXPEDITED PROCEDURE FOR RTC PROPERTIES.—To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this Act that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.".

<< 12 USCA § 1735f–12 NOTE >>

(b) IMPLEMENTATION.—The procedure referred to in the amendment made by subsection (a) shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure not later than the expiration of the 90–day period beginning on the date of the enactment of this Act, which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

<< 42 USCA § 12712 NOTE >>

SEC. 513. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); or

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2–year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180–day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

<< 12 USCA § 1735b NOTE >>

SEC. 514. STUDY REGARDING HOME WARRANTY PLANS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall conduct a study of home and builder's warranties and protection plans regarding the construction of, and materials used in, 1– to 4–family dwellings subject to mortgages insured under title II of the National Housing Act.

(b) SCOPE OF STUDY.—The study shall analyze—

(1) the extent to which home sellers and builders use such warranties and plans,

(2) how such warranties and plans affect the single family mortgage insurance program under the National Housing Act and the solvency of the Mutual Mortgage Insurance Fund,

(3) any effects on homeowners of reliance upon such warranties and plans,

(4) the cost of inspections of mortgaged homes not covered by such warranties or plans,

(5) how quickly the issuers of such warranties and plans pay claims to homeowners under the warranties and plans,

(6) how well such warranties and plans provide for the prevention of structural damage before damage occurs,

(7) how responsive the issuers are to homeowner complaints,

(8) the extent to which homeowners are adequately informed of the extent of insurance coverage, the complaint procedures, and the arbitration procedures available to them under such warranties and plans,

(9) the extent to which the arbitration process used to settle claims under such warranties and plans provides fair and reasonable relief for homeowners,

(10) how well homeowners are informed of their right to appeal the decision of such arbitrators to the Secretary,

(11) whether the reporting and inspection requirements to which such warranties and plans are subject provide the Secretary with sufficient information to verify that such warranties and plans are acceptable,

(12) whether dwellings covered by such warranties and plans satisfy all requirements which would have been applicable if such dwellings had been approved for mortgage insurance by the Secretary before the beginning of construction, and

(13) any other issues relating to such warranties and plans that the Secretary considers appropriate.

(c) REPORT.—The Secretary shall submit a report to the Congress regarding the findings of the study and any recommendations of the Secretary resulting from the study, not later than the expiration of the 12–month period beginning on the date of the enactment of this Act.

<< 12 USCA § 1735b >>

SEC. 515. EXPENDITURES TO CORRECT DEFECTS.

Section 518(a) of the National Housing Act (12 U.S.C. 1735b(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(2) by striking out "The Secretary" and all that follows through "make expenditures for" and inserting in lieu thereof the following:

"(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

"(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

"(B) was approved, before the beginning of construction, for mortgage insurance under this Act or for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

"(C) the Secretary finds to have structural defects.

"(2) Expenditures under this subsection may be made for".

SEC. 516. PAYMENT OF MORTGAGE INSURANCE CLAIMS.

<< 12 USCA § 1710 >>

(a) PAYMENT OF INSURANCE.—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended—

(1) in the fifth sentence of subsection (a), by striking ", subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value" and insert in lieu thereof the following: "issue to the mortgagee debentures having a par value";

(2) by striking subsection (c) and inserting the following:

"(c) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.";

(3) in the first sentence of subsection (d)—

(A) by striking "executed" and inserting "issued"; and

(B) by striking ", shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable" and inserting the following: "and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations"; and

(4) by striking in the fifth sentence of subsection (d) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty".

<< 12 USCA § 1713 >>

(b) RENTAL HOUSING INSURANCE.—Section 207 of the National Housing Act (12 U.S.C. 1713) is amended—

(1) by striking in the second sentence of subsection (g) ", subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value" and inserting the following: "issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value";

(2) by striking in the first sentence of subsection (i) "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(3) by striking in the fourth sentence of subsection (i) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty"; and

(4) by striking subsection (j) and inserting the following:

"(j) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.".

<< 12 USCA § 1715k >>

(c) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE.—Section 220(h) of the National Housing Act (12 U.S.C. 1715k) is amended—

(1) by striking in the first sentence of paragraph (7), "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(2) by striking in the fourth sentence of paragraph (h)(7) "and the guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, the guaranty";

(3) by striking the sixth sentence of paragraph (7), and inserting the following: "Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations."; and

(4) by striking the last sentence of paragraph (7).

<< 12 USCA § 1715*l* >>

(d) HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES.—The second sentence of section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715*l*(g)(4)(A)) is amended by striking ", subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value" and inserting the following: "issue to the mortgagee debentures having a par value".

SEC. 517. COVERAGE OF THE MULTIFAMILY MORTGAGE FORECLOSURE ACT.

<< 12 USCA § 3701 >>

(a) PURPOSES.—Section 362 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701) is amended—

(1) in subsection (a)(1), by striking "real estate" and all that follows through "properties" and inserting: "multifamily mortgages"; and

(2) in subsection (b), by striking "multiunit" and all that follows through "1964" and inserting "multifamily mortgages".

<< 12 USCA § 3702 >>

(b) DEFINITION.—Section 363(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3702(2)) is amended to read as follows:

"(2) 'multifamily mortgage' means a mortgage held by the Secretary pursuant to—

"(A) section 608 or 801, or title II or X, of the National Housing Act;

"(B) section 312 of the Housing Act of 1964, as it existed immediately before its repeal by section 289 of the Cranston–Gonzalez National Affordable Housing Act;

"(C) section 202 of the Housing Act of 1959, as it existed immediately before its amendment by section 801 of the Cranston–Gonzalez National Affordable Housing Act;

"(D) section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston–Gonzalez National Affordable Housing Act; and

"(E) section 811 of the Cranston–Gonzalez National Affordable Housing Act.".

<< 12 USCA § 3705 >>

(c) PREREQUISITES TO FORECLOSURE.—The last sentence of section 366 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3705) is amended by striking "status" and all that follows through "rents" and inserting the following: "status, relief under an assignment of rents, or transfer to a nonprofit entity pursuant to section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston–Gonzalez National Affordable Housing Act) or section 811 of the Cranston–Gonzalez National Affordable Housing Act".

<< 12 USCA § 3706 >>

(d) NOTICE.—Section 367(b)(1) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3706(b)(1)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms of the program under which the mortgage insurance or assistance was provided, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.".

<< 12 USCA § 1708 >>

SEC. 518. MORTGAGEE REVIEW BOARD.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended—

(1) by inserting "temporarily" after "order";

(2) by inserting "(i)" after "Administration if";

(3) by inserting "(ii)" after "violations and"; and

(4) by striking the period after "6 months" and inserting the following: ", and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended.".

<< 12 USCA § 1708 >>

SEC. 519. DEFINITION OF MORTGAGEE.

Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended—
(1) by striking paragraph (6)(D); and
(2) by redesignating paragraph (7) as paragraph (8), and inserting the following after paragraph (6):
"(7) DEFINITION OF 'MORTGAGEE'.—For purposes of this subsection, the term 'mortgagee' means—
"(A) a mortgagee approved under this Act;
"(B) a lender or a loan correspondent approved under title I of this Act;
"(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or
"(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.".

<< 12 USCA § 1715z–20 >>

SEC. 520. EXEMPTION FROM SECTION 137(b) OF THE TRUTH IN LENDING ACT.

Section 255(j) of the National Housing Act (12 U.S.C. 1715z–20(j)) is amended by adding at the end the following: "Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.".

Subtitle B—Secondary Mortgage Market Programs

<< 12 USCA § 1721 >>

SEC. 531. LIMITATION ON GNMA GUARANTEES OF MORTGAGE–BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:
"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $88,000,000,000 during fiscal year 1993 and $91,696,000,000 during fiscal year 1994. There is authorized to be appropriated such sums as may be necessary to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association.".

<< 12 USCA § 1721 >>

SEC. 532. AUTHORITY FOR GNMA TO MAKE HARDSHIP INTEREST PAYMENTS.

Section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting after the period at the end of the third sentence the following new sentence: "In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor.".

Subtitle C—Improvement of Financing for Multifamily Housing

<< 12 USCA § 1707 NOTE >>

SEC. 541. SHORT TITLE.

This subtitle may be cited as the "Multifamily Housing Finance Improvement Act".

<< 12 USCA § 1707 NOTE >>

SEC. 542. MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall carry out programs through the Federal Housing Administration to demonstrate the effectiveness of providing new forms of Federal credit enhancement for multifamily loans. In carrying out demonstration programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) RISK–SHARING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a pilot program through the Federal Housing Administration to provide for risk sharing related to mortgages on multifamily housing.

(2) AUTHORITY FOR REINSURANCE AGREEMENTS.—The Secretary may enter into reinsurance agreements (as such term is defined in section 544) with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, qualified housing finance agencies, and the Federal Housing Finance Board. The agreements may provide for risk-sharing and other forms of credit enhancement with respect to mortgage lending on multifamily housing, including reinsurance with respect to pools of loans on multifamily housing properties, that the Secretary determines to be appropriate to carry out the purposes of this subsection. The agreements shall be in a form and have such terms and conditions as the Secretary determines to be appropriate to carry out the purposes of this subsection.

(3) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(4) ELIGIBILITY STANDARDS.—The Secretary shall establish and enforce standards for financial institutions and entities to be eligible to enter into reinsurance agreements under this subsection, as the Secretary determines to be appropriate.

(5) FUNDING.—Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 15,000 units over fiscal years 1993 and 1994. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress.

(6) FEES.—The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(7) NON–FEDERAL PARTICIPATION.—The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(8) TIMING.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection not later than the expiration of the 8–month period beginning on the date of the enactment of this Act.

(c) HOUSING FINANCE AGENCY PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

(2) PILOT PROGRAM REQUIREMENTS.—

(A) IN GENERAL.—In carrying out the pilot program authorized under this subsection, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

(B) MORTGAGE INSURANCE.—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.

(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

(3) MORTGAGE INSURANCE PREMIUMS.—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

(4) LIMITATION ON INSURANCE AUTHORITY.—Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection with respect to mortgages on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

(5) IDENTITY OF INTEREST.—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

(6) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

(7) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by very low-income families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986.

(8) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out this subsection.

(d) INDEPENDENT STUDIES AND REPORTS.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The Federal Home Loan Mortgage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(3) SECRETARY.—The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under each of the pilot programs. The Secretary shall submit and publish a preliminary report under this paragraph not later than 9 months after the date of the implementation of each of the pilot programs, and a final report not later than 24 months after the date of implementation on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

(4) COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out an evaluation of each of the pilot programs under this section and shall submit to the Congress, not later than 30 months after the date of implementation for each of the pilot programs, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section. The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act.

(5) FEDERAL HOUSING FINANCE BOARD.—The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot programs under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 9 months after the date of the enactment of this Act, and a final report containing such findings not later than 24 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

<< 12 USCA § 1707 NOTE >>

SEC. 543. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) ESTABLISHMENT OF TASK FORCE.—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the "Task Force").

(c) MEMBERSHIP OF TASK FORCE.—

(1) FEDERAL OFFICIALS.—The Task Force shall be composed of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Federal Housing Finance Board;

(C) the Comptroller of the Currency;

(D) the Chairman of the Board of Governors of the Federal Reserve System;

(E) the Director of the Office of Thrift Supervision;

(F) the Chairperson of the Federal Deposit Insurance Corporation;

(G) the Chairperson of the Federal National Mortgage Association; and

(H) the Chairperson of the Federal Home Loan Mortgage Corporation,

or their designees, and the persons appointed under paragraphs (2) and (3).

(2) APPOINTMENTS BY THE SECRETARY.—The Secretary shall appoint as members of the Task Force—

(A) 1 individual who is a representative of a State housing finance agency;

(B) 1 individual who is a representative of a local housing finance agency;

(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act, the Task Force shall submit to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) AUTHORITY OF TASK FORCE.—

(1) RULES AND REGULATIONS.—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2) ACCESS TO DATA.—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(3) SAMPLE DATA.—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $6,000,000 for fiscal year 1993 and $6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

<< 12 USCA § 1707 NOTE >>

SEC. 544. DEFINITIONS.

For purposes of this subtitle:

(1) The term "multifamily housing" means a property consisting of more than 4 dwelling units.

(2) The term "qualified housing finance agency" means any State or local housing finance agency that—

(A) carries the designation of "top tier" or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of "A" for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

(3) The term "reinsurance agreement" means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

TITLE VI—HOUSING FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES

Subtitle A—Supportive Housing Programs

SEC. 601. FUNDING FOR SUPPORTIVE HOUSING FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES.

(a) AGGREGATE FUNDING.—There are authorized to be appropriated for the purpose of providing assistance in accordance with section 202 of the Housing Act of 1959 and section 811 of the Cranston–Gonzalez National Affordable Housing Act, $1,309,853,000 for fiscal year 1993 and $1,364,866,826 for fiscal year 1994.

(b) ALLOCATION.—Of any amounts made available for assistance under the sections referred to in subsection (a), 70 percent of such amount shall be used for assistance in accordance with section 202 of the Housing Act of 1959 and 30 percent of such amount shall be used for assistance in accordance with section 811 of the Cranston–Gonzalez National Affordable Housing Act.

<< 12 USCA § 1701q >>

(c) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)) is amended—

(1) by striking "AUTHORIZATIONS.—" and inserting "ALLOCATION OF FUNDS.—";

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: "Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1).”; and

(B) in the second sentence, by striking "Amounts so appropriated" and inserting "Such amounts";

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).”; and

(4) in paragraph (3), by striking "under this subtitle" and inserting "for assistance under this section".

<< 42 USCA § 8013 >>

(d) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(l) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)) is amended—

(1) by striking "AUTHORIZATIONS.—" and inserting "ALLOCATION OF FUNDS.—";

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: "Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1).”; and

(B) in the second sentence, by striking "Amounts so appropriated" and inserting "Such amounts";

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).";

(4) by redesignating paragraphs (1) and (2) (as so amended) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection (b) that is not less than the amount made available in appropriation Acts for such assistance in the preceding year, and the remainder shall be available for tenant-based assistance under subsection (n).".

SEC. 602. SUPPORTIVE HOUSING FOR THE ELDERLY.

<< 12 USCA § 1701q >>

(a) TECHNICAL CORRECTIONS.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801(a) of the Cranston–Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (g)(1), by striking "and persons with disabilities"; and

(2) in subsection (i)(1)(A), by striking "persons with disabilities" and inserting "elderly persons".

(b) REPEAL OF REQUIREMENT FOR STATE AND LOCAL CERTIFICATION OF SERVICES.—Section 202(e) of the Housing Act of 1959 (12 U.S.C. 1701q(e)), as amended by section 801(a) of the Cranston–Gonzalez National Affordable Housing Act, is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) SELECTION CRITERIA.—Section 202(f)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(2)) is amended by adding at the end ", taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities".

<< 12 USCA § 1701q NOTE >>

(d) ELDER COTTAGE HOUSING.—

(1) IMPLEMENTATION.—Section 806(b) of the Cranston–Gonzalez National Affordable Housing Act (12 U.S.C. 1701q note) is amended to read as follows:

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959, the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1– to 4–family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the programs under such sections.

"(2) ALLOCATION.—Notwithstanding any other law, the Secretary shall reserve from any amounts available for capital advances and project rental assistance under section 202 of the Housing Act of 1959, amounts sufficient in each of fiscal years 1993 and 1994 to provide not less than 100 units under the demonstration under this subsection in connection with each such section. Any amounts reserved under this paragraph shall be available only for carrying out the demonstration under this subsection and, for purposes of the demonstration, the cost of purchasing and installing an elder cottage housing opportunity unit shall be considered an eligible development cost under sections 202 of the Housing Act of 1959.

"(3) REPORT.—Not later than January 1, 1994, the Secretary shall submit a report to the Congress on the results of the demonstration under this subsection, which shall be based on actual experience in implementing this subsection.

"(4) IMPLEMENTATION.—The Secretary shall issue regulations to carry out the demonstration under this subsection not later than the expiration of the 6–month period beginning on the date of the enactment of the Housing and Community Development Act of 1992.".

<< 12 USCA § 1701q >>

(e) ACCESS TO RESIDUAL RECEIPTS.—Section 202(j) of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

"(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of $500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston–Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.".

(f) WAIVER OF OWNER DEPOSIT.—Section 202(j)(3)(B) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(B)) is amended by adding at the end the following new sentence: "The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.".

(g) NONMETROPOLITAN ALLOCATION.—Section 202(l)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by striking "20 percent" and inserting "15 percent".

<< 42 USCA § 8013 >>

SEC. 603. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

Section 811(k)(6) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(6)) is amended—

(1) by striking "incorporated private";

(2) by redesignating subparagraphs (A), (B), and (C), as subparagraphs (B), (C), and (D), respectively; and

(3) by inserting after "foundation—" the following new subparagraph:

"(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;".

SEC. 604. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

<< 42 USCA § 8011 >>

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 802(n)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8011(n)(1)) is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section $21,000,000 for fiscal year 1993, and $21,882,000 for fiscal year 1994, of which not more than—".

(b) SUPPLEMENTAL CONTRIBUTIONS.—Section 802(i)(1)(B)(i) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8011(i)(1)(B)(i)) is amended by striking "3–year" each place it appears and inserting "6–year".

<< 42 USCA § 8011 NOTE >>

(c) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30–day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a copy of proposed interim regulations implementing section 802 of the Cranston–Gonzalez National Affordable Housing Act with respect to eligible federally assisted housing (as such term is defined in section 802(k) of such Act) administered by each such Secretary. Not later than the expiration of the 45–day period beginning on the date of the enactment of this Act, but not before the expiration of the 15–day period beginning upon the submission of the proposed interim regulations to the Congress, each such Secretary shall publish interim regulations implementing such section 802, which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90–day period beginning upon the publication of interim regulations under paragraph (1), each such Secretary shall issue final regulations implementing section 802 of the Cranston–Gonzalez National Affordable Housing Act after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

(3) FAILURE UNDER 1990 ACT.—This subsection may not be construed to authorize any failure to comply with the requirements of section 802(m) of the Cranston–Gonzalez National Affordable Housing Act.

<< 42 USCA § 8012 >>

SEC. 605. HOPE FOR ELDERLY INDEPENDENCE.

(a) SECTION 8 ASSISTANCE.—Section 803(j) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8012(j)) is amended to read as follows:

"(j) SECTION 8 FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under sections 8(b) and 8(o) of such Act is authorized to be increased by $38,288,000 on or after October 1, 1992, and by $39,896,096 on or after October 1, 1993. The amounts made available under this subsection shall be used only in connection with the demonstration under this section.

(b) SUPPORTIVE SERVICES AUTHORIZATION.—Section 803(k) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8012(k)) is amended to read as follows:

"(k) FUNDING FOR SERVICES.—There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section $10,000,000 to become available in fiscal year 1993, and $10,420,000 to become available in fiscal year 1994. Any such amounts appropriated under this subsection shall remain available until expended.".

(c) DEMONSTRATION PERIOD.—Section 803 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) in subsection (a), by striking "beginning on the date of the enactment of this Act" and inserting "determined by the Secretary"; and

(2) by striking paragraph (1) of subsection (g) and inserting the following new paragraph:

"(1) The term 'demonstration period' means the 5–year period referred to in subsection (a).".

SEC. 606. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

(a) AMENDMENT OF CRANSTON–GONZALEZ NATIONAL HOUSING ACT.—Whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Cranston–Gonzalez National Affordable Housing Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 863 (42 U.S.C. 12912) is amended to read as follows:

<< 42 USCA § 12912 >>

"SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 1993 and $156,300,000 for fiscal year 1994.".

<< 42 USCA § 12902 >>

(c) DEFINITIONS.—Section 853 (42 U.S.C. 12902) is amended—

(1) in paragraph (2), by striking "sponsor receiving assistance from a grantee" and inserting "organization eligible to receive assistance under this subtitle";

(2) in paragraph (5), by striking "metropolitan area" and inserting "metropolitan statistical area"; and

(3) by adding at the end the following new paragraphs:

"(11) The term 'city' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(12) The term 'eligible person' means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

"(13) The term 'nonprofit organization' means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

"(A) is organized under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

"(14) The term 'project sponsor' means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.".

<< 42 USCA § 12903 >>

(d) GRANT ELIGIBILITY AND ALLOCATION.—Section 854 (42 U.S.C. 12903) is amended—

(1) in subsection (a), by striking "and units of general local government" and inserting ", units of general local government, and nonprofit organizations";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.";

(3) by striking paragraph (1) of subsection (c) and inserting the following new paragraph:

"(1) FORMULA ALLOCATION.—The Secretary shall allocate 90 percent of the amounts approved in appropriation Acts under section 863 among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 105 of this Act. Such amounts shall be allocated as follows:

"(A) 75 percent among—

"(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and

"(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in clause (i); and

"(B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.

A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.";

(4) in subsection (c)(3)—

(A) by striking the paragraph heading and inserting "NONFORMULA ALLOCATION.—"; and

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

"(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

"(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.";

(5) in the first sentence of subsection (d), by striking "approvable applications submitted by eligible applicants" and inserting "applications submitted by applicants and approved by the Secretary";

(6) in subsection (e), by striking "requirements of subsection (b)" and inserting "other requirements of this section"; and

(7) by adding at the end the following new subsection:

"(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.".

<< 42 USCA § 12904 >>

(e) LIMITATION ON SPENDING FOR OTHER ACTIVITIES.—Section 855(6) (42 U.S.C. 12904(6)) is amended by inserting before the period at the end the following: ", except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3)".

<< 42 USCA § 12905 >>

(f) FEES AND LIMITATION ON USE OF GRANT AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 856 (42 U.S.C. 12905) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle."; and

(2) by adding at the end the following new subsection:

"(g) ADMINISTRATIVE EXPENSES.—

"(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

"(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.".

<< 42 USCA § 12907 >>

(g) SHORT–TERM SUPPORTED HOUSING AND SERVICES.—Section 858 (42 U.S.C. 12907) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period at the end the following: "(except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments";

(B) by striking paragraphs (4) and (5); and

(C) by adding at the end the following new paragraphs:

"(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

"(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g))."; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking subparagraph (B);

(ii) in subparagraph (C), by striking "limitations under subparagraphs (A) and (B)" and inserting "limitation under subparagraph (A)"; and

(iii) by redesignating subparagraph (C) (as so amended) as subparagraph (B); and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.".

(h) RENTAL ASSISTANCE.—

<< 42 USCA § 12908 >>

(1) IN GENERAL.—Section 859 (42 U.S.C. 12908) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SEC. 859. RENTAL ASSISTANCE.";

(B) in the first sentence of subsection (a)(1), by striking "short-term"; and

(C) by adding at the end the following new subsection:

"(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).".

<< 42 USCA § 12904 >>

(2) CONFORMING AMENDMENT.—Section 855(3) (42 U.S.C. 12904(3)) is amended by striking "short-term".

<< 42 USCA § 12910 >>

(i) COMMUNITY RESIDENCES AND SERVICES.—Section 861(c) (42 U.S.C. 12910(c)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle"; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).".

(j) ELIGIBILITY OF FAMILIES.—

<< 42 USCA § 12901 >>

(1) Section 852 (42 U.S.C. 12901) is amended by inserting "and families of such persons" before the period at the end.

<< 42 USCA § 12903 >>

(2) Section 854(c)(3) (42 U.S.C. 12903(c)(3)) is amended by striking "persons with acquired immunodeficiency syndrome" and inserting "eligible persons" each place it appears.

<< 42 USCA § 12904 >>

(3) Section 855 (42 U.S.C. 12904) is amended—

(A) in the matter preceding paragraph (1), by striking "such persons with acquired immunodeficiency syndrome" and inserting "eligible persons"; and

(B) in paragraph (5), by striking "with acquired immunodeficiency syndrome".

<< 42 USCA § 12905 >>

(4) Section 856(c) (42 U.S.C. 12905(c)) is amended by striking "such individuals" and inserting "such eligible persons".

<< 42 USCA § 12907 >>

(5) Section 858(a)(3) (42 U.S.C. 12907(a)(3)) is amended by striking "individuals" and inserting "eligible persons".

<< 42 USCA § 12908 >>

(6) Section 859(b)(1) (42 U.S.C. 12908(b)(1)) is amended by striking "individuals" and inserting "eligible persons".

<< 42 USCA §§ 12908, 12909 >>

(7) Sections 859(b)(2) and 860(b)(2) (42 U.S.C. 12908(b), 12909(b)(2)) are amended by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual" each place it appears.

<< 42 USCA § 12910 >>

(8) Section 861(a) (42 U.S.C. 12910(a)) is amended by striking "persons with acquired immunodeficiency syndrome or related diseases" and inserting "eligible persons".

<< 42 USCA § 12910 >>

(9) Section 861(b)(1)(A)(iv) (42 U.S.C. 12910(b)(1)(A)(iv)) is amended by striking "such individuals" and inserting "such eligible persons".

(10) Section 861(d)(1) (42 U.S.C. 12910(d)(1)) is amended—

(A) in subparagraph (A), by striking "individuals" and inserting "eligible persons"; and

(B) in subparagraph (D), by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual".

(11) Subtitle D of title VIII of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.) is amended by striking "individuals with acquired immunodeficiency syndrome or related diseases" each place it appears in the following provisions and inserting "eligible persons":

<< 42 USCA § 12905 >>

(A) Section 856(c).

<< 42 USCA § 12906 >>

(B) Section 857.

<< 42 USCA § 12907 >>

(C) Section 858—

(i) in subsection (a), in the matter preceding paragraph (1); and

(ii) in subsection (b)(1)(A);

<< 42 USCA § 12908 >>

(D) Section 859(a)(1).

<< 42 USCA § 12910 >>

(E) Section 861—

(i) in subsection (b); and

(ii) in subsection (d).

<< 42 USCA § 12901 NOTE >>

(k) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30–day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston–Gonzalez National Affordable Housing Act (as amended by this section). Not later than the expiration of the 45–day period beginning on the date of the enactment of this Act, but not before the expiration of the 15–day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90–day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston–Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

Subtitle B—Authority for Public Housing Agencies To Provide Designated Public Housing and Assistance for Disabled Families

<< 42 USCA § 1437a >>

SEC. 621. DEFINITIONS.

Paragraph 3 of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended to read as follows:

"(3) PERSONS AND FAMILIES.—

"(A) SINGLE PERSONS.—The term 'families' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms. In determining priority for admission to housing under this Act, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.

"(B) FAMILIES.—The term 'families' means families with children, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

"(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

"(D) ELDERLY PERSON.—The term 'elderly person' means a person who is at least 62 years of age.

"(E) PERSON WITH DISABILITIES.—The term 'person with disabilities' means a person who—

"(i) has a disability as defined in section 223 of the Social Security Act,

"(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

"(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

"(F) DISPLACED PERSON.—The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

"(G) NEAR–ELDERLY PERSON.—The term 'near-elderly person' means a person who is at least 50 years of age but below the age of 62.".

SEC. 622. AUTHORITY.

<< 42 USCA § 1437e >>

(a) IN GENERAL.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency whose allocation plan under subsection (f) (and any biannual update) has been approved by the Secretary may, to the extent provided in the allocation plan, provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families (subject to the provisions of subsection (e)), or (C) elderly and disabled families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated. Among such types of families, preference for occupancy in such projects (or portions) shall be given according to the preferences for occupancy under section 6(c)(4)(A).

"(3) ELIGIBILITY OF NEAR–ELDERLY FAMILIES.—If a public housing agency determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may (pursuant to the approved allocation plan under subsection (f) for the agency) provide that near-elderly families who qualify for preferences for occupancy under section 6(c)(4)(A) may occupy dwelling units in the project (or portion).

"(4) VACANCY.—Notwithstanding the authority under paragraphs (1) and (2) to designate public housing projects (or portions of projects) for occupancy by only certain types of families, a public housing agency shall make any dwelling unit that is ready for occupancy in such a project (or portion of a project) that has been vacant for more than 60 consecutive days generally available for occupancy (subject to the requirements of this title) without regard to such designation.

"(b) AVAILABILITY OF HOUSING.—

"(1) TENANT CHOICE.—The decision of any disabled family not to occupy or accept occupancy in an appropriate type of project or assistance made available to the family under this title shall not adversely affect the family with respect to a public housing agency making available occupancy in other appropriate projects in public housing or assistance under this title.

"(2) DISCRIMINATORY SELECTION.—Paragraph (1) shall not apply to any family who decides not to occupy or accept an appropriate dwelling unit in public housing or to accept assistance under this Act on the basis of the race, color, religion, sex, disability, familial status, or national origin of occupants of housing or the surrounding area.

"(3) APPROPRIATENESS OF DWELLING UNITS.—This section may not be construed to require a public housing agency to offer occupancy in any dwelling unit assisted under this Act to any family who is not of appropriate family size for the dwelling unit.

"(c) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in the project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) or because of any action taken by the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

"(d) ACCOMMODATION OF HOUSING AND SERVICE NEEDS.—In designing, developing, otherwise acquiring and operating, designating, and providing housing and assistance under this title, each public housing agency shall meet, to the extent practicable, the housing and service needs of eligible families applying for assistance under this title, as provided in any allocation plan of the agency approved under subsection (f). To meet such needs, public housing agencies may, wherever practicable and in accordance with any allocation plan of the agency—

"(1) provide housing in which supportive services are provided, facilitated, or coordinated, mixed housing, shared housing, family housing, group homes, congregate housing, and other housing as the public housing agency considers appropriate;

"(2) carry out major reconstruction of obsolete public housing projects and reconfiguration of public housing dwelling units; and

"(3) provide tenant-based assistance under section 811(b)(1).

"(e) APPLICATION FOR DESIGNATED HOUSING FOR DISABLED FAMILIES.—

"(1) REQUIREMENT.—A project (or portion of a project) may be designated under subsection (a)(1) for occupancy by only disabled families only if the public housing agency administering the project complies with the other requirements of this section and the Secretary approves an application under this subsection for such designation. The Secretary shall establish the form and procedures for submission and approval of applications under this subsection.

"(2) CONTENTS.—An application under this subsection shall contain—

"(i) a description of the projects (or portions of projects) to be designated (which may include group homes, independent living facilities, units in multifamily housing developments, condominium housing, cooperative housing, and scattered site housing);

"(ii) a supportive service plan—

"(I) describing the needs of persons with disabilities that the housing is expected to serve;

"(II) providing for delivery of supportive services appropriate to meet the individual needs of persons with disabilities occupying the housing;

"(III) describing the experience of the applicant (or service providers) in providing such services;

"(IV) describing the manner in which such services will be provided to such persons; and

"(V) identifying any State, local, other Federal, or other funds available for providing such services; and

"(iii) any other information or certification that the Secretary considers appropriate.

"(3) APPROVAL.—The Secretary may approve an application under this subsection only if the Secretary determines that—

"(i) the persons with disabilities occupying the housing will receive supportive services based on their individual needs;

"(ii) the applicant (or service providers) have sufficient experience in providing supportive services;

"(iii) residential supervision will be provided in the housing sufficient to facilitate the provision of supportive services; and

"(iv) the supportive services are adequately designed to meet the special needs of the tenants.

"(4) SUPPORTIVE SERVICES.—For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of tenants, and may include meal services, health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.

"(f) ALLOCATION PLANS.—

"(1) REQUIREMENT.—A public housing agency may not designate a project (or portion of a project) for occupancy under subsection (a)(1) unless the agency submits an allocation plan under this subsection and the plan is approved under paragraph (4) of this subsection.

"(2) CONTENTS.—An allocation plan submitted under this subsection by a public housing agency shall include—

"(A) a description of the projects (or portions of projects) to be designated and the types of tenants occupying such projects (or portions);

"(B) a description of the estimated pool of applicants for such housing, based on the waiting lists for such housing, and any information collected in the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act for the jurisdiction within which the area served by the public housing agency is located;

"(C) a statement identifying the projects or portions of projects (including the buildings or floors) to be designated for occupancy under subsection (a)(1) for only certain types of families, the types of families who will be eligible for occupancy in such projects (or portions), and the reasons for the designation;

"(D) documentation of the number of units in the projects (or portions) identified under subparagraph (C) which became vacant and available for occupancy during the preceding year;

"(E) an estimate of the number of units in the projects (or portions) identified under subparagraph (C) that will become vacant and available for occupancy during the ensuing 2–year period;

"(F) a description of the occupancy policies and procedures, including procedures for maintaining waiting lists for eligible applicants who are elderly families or disabled families for occupancy in units in projects administered by the agency sufficient to document the number and duration of instances in which housing assistance for eligible applicants will be denied or delayed by the agency because of a lack of appropriately designated units;

"(G) a plan for securing sufficient additional resources that the agency owns, controls, or has received preliminary notification that it will obtain, or for which the agency plans to apply, that will be sufficient to provide assistance to not less than the number of nonelderly disabled families that would have been housed if occupancy in such units were not restricted pursuant to this section; and

"(H) any comments of agencies, organizations, or persons with whom the public housing agency consults under paragraph (3).

"(3) DEVELOPMENT.—In preparing the initial allocation plan, or updates of a plan under paragraph (5), for submission under this subsection, a public housing agency shall consult with the State or unit of general local government in whose jurisdiction the area served by the public housing agency is located, public and private service providers, advocates for the interest of eligible elderly families, disabled families, and families with children, and other interested parties.

"(4) APPROVAL.—

"(A) CRITERIA.—The Secretary shall approve an allocation plan, or an updated plan, submitted under this subsection if the Secretary determines that, based on the plan and comments submitted pursuant to paragraph (2)(H)—

"(i) the information contained in the plan is complete and accurate and the projections are reasonable;

"(ii) implementation of the plan will not result in excessive vacancy rates in projects (or portions of projects) identified in paragraph (2)(C); and

"(iii) the plan under paragraph (2)(G) can reasonably be achieved.

"(B) NOTIFICATION.—

"(i) IN GENERAL.—The Secretary shall notify each public housing agency submitting an allocation plan under this subsection in writing of approval or disapproval of the plan.

"(ii) TIMING.—A plan shall be considered to be approved if the Secretary does not notify the public housing agency of approval or disapproval of the initial or revised plan within (I) 90 days after the submission of any plan that contains comments pursuant to paragraph (2)(H), or (II) 45 days for any other plan.

"(iii) RESUBMISSION.—If the Secretary disapproves the plan, the Secretary shall, for a period of not less than 45 days following the date of disapproval, permit amendments to, or resubmission of, the plan.

"(C) RULE OF CONSTRUCTION.—The approval of an allocation plan or updated plan under this subsection may not be construed to constitute approval of any request for assistance for major reconstruction of obsolete projects, assistance for development or acquisition of public housing, or assistance under section 811(b)(1) of the Cranston–Gonzalez National Affordable Housing Act, that are contained in the plan pursuant to subparagraph (H).

"(5) BIANNUAL UPDATE.—

"(A) IN GENERAL.—Each public housing agency that owns or operates a project (or portion of a project) that is designated for occupancy under subsection (a)(1) shall update the plan of the agency under this subsection not less than once every 2 years, as the Secretary shall provide. The Secretary shall notify each public housing agency submitting an updated plan under this paragraph of approval or disapproval of the updated plan as required under paragraph (4)(B), and the provisions of such paragraph shall apply to updated plans under this paragraph.

"(B) CONTENTS.—The updated plan shall include—

"(i) a review of the data and projections contained in the allocation plan and the most recent update submitted under this subsection;

"(ii) an assessment of the accuracy of the projections contained in such plan and update;

"(iii) a statement of the number of times a vacancy was filled pursuant to subsection (a)(4);

"(iv) a statement of the number of times an application for housing assistance by an eligible applicant was denied or delayed because of a lack of appropriately designated units; and

"(v) a plan for adjusting the allocation, if necessary, in accordance with the needs identified pursuant to this subparagraph.

"(C) STANDARDS FOR APPROVAL.—The Secretary shall establish standards for preparation, submission, and approval of updated plans.

"(g) PROHIBITION OF COERCION.—No elderly or disabled family residing in any public housing project may be required to accept services.".

<< 42 USCA § 1437d >>

(b) OCCUPANCY PREFERENCES.—The matter preceding clause (i) in section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "specifically designated for elderly families" and inserting "designated for occupancy pursuant to section 7(a)".

<< 42 USCA § 1437a >>

(c) DEFINITIONS.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended by inserting after "project." the following new paragraphs:

"(4) The term 'congregate housing' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

"(5) The terms 'group home' and 'independent living facility' have the meanings given such terms in section 811(k) of the Cranston–Gonzalez National Affordable Housing Act.

SEC. 623. TENANT–BASED ASSISTANCE FOR PERSONS WITH DISABILITIES.

<< 42 USCA § 8013 >>

(a) IN GENERAL.—Section 811 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) by amending the section heading to read as follows:

"SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.";

(2) in subsection (b)—

(A) in the matter following paragraph (2)—

(i) by moving such matter 2 ems to the right; and

(ii) by striking "Such assistance" and inserting "assistance under this paragraph";

(B) by striking the subsection heading and all that follows through the end of paragraph (2) and inserting the following:

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized—

"(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4); and

"(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

"(A) capital advances in accordance with subsection (d)(1), and

"(B) contracts for project rental assistance in accordance with subsection (d)(2);";

(3) in subsection (d)—

(A) in paragraphs (1) and (3), by striking "this section" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following new paragraph—

"(4) TENANT–BASED RENTAL ASSISTANCE.—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted, and had approved, an allocation plan under section 7(f) of the United States Housing Act of 1937, and a public housing agency shall be eligible to apply under this section only for the purposes of providing such assistance. Such assistance shall be made available to eligible persons with disabilities and administered under the same rules that govern rental assistance made available under section 8 of the United States Housing Act of 1937. In determining the amount of assistance provided under subsection (b)(1) for a public housing agency, the Secretary shall consider the needs of the agency as described in the allocation plan.";

(4) in subsection (e)(1), by striking "this section" and inserting "subsection (b)(2)";

(5) in subsection (f), in the first and second sentences, by striking "this section" and inserting "subsection (b)(2)"; and

(6) in subsection (g), by striking "this section" and inserting "subsection (b)(2)".

<< 42 USCA § 1437f >>

(b) SECTION 8 ASSISTANCE.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by inserting after subsection (h) the following new subsection:

"(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston–Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.".

<< 42 USCA § 1437c >>

SEC. 624. DEVELOPMENT AND RECONSTRUCTION OF HOUSING FOR DISABLED FAMILIES.

(a) SET–ASIDE OF MAJOR RECONSTRUCTION FUNDS FOR RECONFIGURATION OF PROJECTS.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(G)(i) In fiscal years 1993 and 1994, the Secretary shall commit for use under clause (ii) not less than 5 percent of any amounts reserved under subparagraph (A) for each such fiscal year.

"(ii) The amounts referred to in clause (i) shall be available to public housing agencies only for use for projects (or portions of projects) designated for occupancy under section 7(a)(1) and (e) by disabled families.

"(iii) In allocating amounts reserved under this subparagraph among public housing agencies, the Secretary shall consider the need for any such amounts as identified in the allocation plans submitted by agencies under section 7(f).".

(b) SET–ASIDE OF NEW CONSTRUCTION FUNDS FOR HOUSING DESIGNED FOR DISABLED FAMILIES AND SINGLE PERSONS.—Section 5(j) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)) is amended by adding at the end the following new paragraph:

"(3)(A) In fiscal years 1993 and 1994, the Secretary shall reserve for use under subparagraph (B) not less than 5 percent of any amounts approved in appropriation Acts for each such fiscal year for public housing grants under subsection (a)(2) that are not designated under such Acts for use under paragraph (2) of this subsection of the substantial redesign, reconstruction, or redevelopment of existing public housing projects, buildings, or units.

"(B) Any amount reserved under subparagraph (A) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the costs of development or acquisition of public housing projects or buildings designated for occupancy under section 7(a)(1) and (e) by disabled families. A building so assisted may not contain more than 25 dwelling units, except that the Secretary may (in the discretion of the Secretary) waive such limitation for a building.

"(C) The Secretary shall carry out a competition for budget authority reserved under subparagraph (A) among eligible public housing agencies and shall allocate such budget authority to public housing agencies pursuant to the competition, based on (i) the need of the agency for such assistance (taking into consideration the allocation plans submitted under section 7(f) by agencies), and (ii) the extent to which the public housing projects and buildings to be developed or assisted meet the requirements of section 7(e).".

(c) REQUIREMENT FOR USE OF NEW CONSTRUCTION FUNDS FOR PROJECTS DESIGNATED FOR ELDERLY FAMILIES.—Section 5(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(1)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(E) in the case of an application for development of projects (or portions of projects) designated under section 7(a)(1) for occupancy for elderly families, only if the agency certifies to the Secretary that the use of such assistance will assist in expanding the housing available for eligible persons with disabilities identified in the allocation plan for the agency submitted under section 7(f); and".

SEC. 625. CONFORMING AMENDMENTS.

(a) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended —

<< 42 USCA § 1437a >>

(1) in section 3(b)(5)(B), by inserting "or disabled" after "elderly";

<< 42 USCA § 1437d >>

(2) in the last sentence of section 6(a), by striking "the elderly" and inserting "elderly or disabled families";

<< 42 USCA § 1437***l*** >>

(3) in section 14(i)(1)(D)(ii), by striking "elderly families and handicapped families" and inserting "elderly and disabled families"; and

<< 42 USCA § 1437***o*** >>

(4) in section 17(c)(2)(G)(i), by striking "the elderly" and inserting "elderly families".

<< 42 USCA § 1438 >>

(b) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The first sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking "the elderly or the handicapped" and inserting "elderly or disabled families".

<< 42 USCA § 1437a NOTE >>

SEC. 626. INAPPLICABILITY TO INDIAN PUBLIC HOUSING.

The amendments made by this subtitle shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing

<< 42 USCA § 13601 >>

SEC. 641. COMPLIANCE BY OWNERS AS CONDITION OF FEDERAL ASSISTANCE.

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 683(2)), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subtitle.

<< 42 USCA § 13602 >>

SEC. 642. COMPLIANCE WITH CRITERIA FOR OCCUPANCY AS REQUIREMENT FOR TENANCY.

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 643. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

<< 42 USCA § 13603 >>

SEC. 643. ESTABLISHMENT OF CRITERIA FOR OCCUPANCY.

(a) TASK FORCE.—

(1) ESTABLISHMENT.—To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) MEMBERS.—The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, persons with disabilities and disabled families, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) COMPENSATION.—Members of the task force shall not receive compensation for serving on the task force.

(4) DUTIES.—The task force shall—

(A) review all existing standards, regulations, and guidelines governing occupancy and tenant selection policies in federally assisted housing;

(B) review all existing standards, regulations, and guidelines governing lease provisions and other rules of occupancy for federally assisted housing;

(C) determine whether the standards, regulations, and guidelines reviewed under subparagraphs (A) and (B) provide sufficient guidance to owners and managers of federally assisted housing to—

(i) develop procedures for preselection inquiries sufficient to determine the capacity of applicants to comply with reasonable lease terms and conditions of occupancy;

(ii) utilize leases that prohibit behavior which endangers the health or safety of other tenants or violates the rights of other tenants to peaceful enjoyment of the premises;

(iii) assess the need to provide, and appropriate measures for providing, reasonable accommodations required under the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 for persons with various types of disabilities; and

(iv) comply with civil rights laws and regulations;

(D) propose criteria for occupancy in federally assisted housing, standards for the reasonable performance and behavior of tenants of federally assisted housing, compliance standards consistent with the reasonable accommodation of the requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, standards for compliance with other civil rights laws, and procedures for the eviction of tenants not complying with such standards consistent with sections 6 and 8 of the United States Housing Act of 1937; and

(E) report to the Congress and the Secretary of Housing and Urban Development pursuant to paragraph (7).

(5) PROCEDURE.—In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) SUPPORT.—The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) REPORTS.—Not later than 3 months after the date of enactment of this Act, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after the date of enactment of this Act, the task force shall submit a report to the Secretary and the Congress, which shall include—

(A) a description of its findings; and

(B) recommendations to revise such standards, regulations, and guidelines to provide accurate and complete guidance to owners and managers of federally assisted housing as determined necessary under paragraph (4).

(b) RULEMAKING.—

(1) AUTHORITY.—The Secretary shall, by regulation, establish criteria for selection of tenants for occupancy in federally assisted housing and lease provisions for such housing.

(2) STANDARDS.—The criteria shall provide sufficient guidance to owners and managers of federally assisted housing to enable them to (A) select tenants capable of complying with reasonable lease terms, (B) utilize leases prohibiting behavior which endangers the health or safety of others or violates the right of other tenants to peaceful enjoyment of the premises, (C)

comply with legal requirements to make reasonable accommodations for persons with disabilities, and (D) comply with civil rights laws. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 6 and section 8(d)(1) of the United States Housing Act of 1937 and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the report of the task force under subsection (a)(7).

(3) PROCEDURE.—Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall not be less than 60 days. The Secretary shall issue final regulations under this subsection not later than the expiration of the 60–day period beginning upon the conclusion of the comment period, which shall take effect upon issuance.

<< 42 USCA § 13604 >>

SEC. 644. ASSISTED APPLICATIONS.

(a) AUTHORITY.—The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization, and that the owner shall treat such information as confidential.

(b) MAINTENANCE OF INFORMATION.—The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

(c) LIMITATIONS.—An owner of federally assisted housing may not require any individual or family applying for occupancy in the housing to provide the information described in subsection (a).

Subtitle D—Authority To Provide Preferences for Elderly Residents and Units for Disabled Residents in Certain Section 8 Assisted Housing

<< 42 USCA § 13611 >>

SEC. 651. AUTHORITY.

Notwithstanding any other provision of law, an owner of a covered section 8 housing project (as such term is defined in section 659) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subtitle.

<< 42 USCA § 13612 >>

SEC. 652. RESERVATION OF UNITS FOR DISABLED FAMILIES.

(a) REQUIREMENT.—Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 651, such owner shall (subject to sections 653, 654, and 655) reserve units in the project for occupancy only by disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) NUMBER OF UNITS.—Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

(1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such disabled families upon the date of the enactment of this Act; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

<< 42 USCA § 13613 >>

SEC. 653. SECONDARY PREFERENCES.

(a) INSUFFICIENT ELDERLY FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 652, the owner may give preference for occupancy of such units to disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) INSUFFICIENT NON–ELDERLY DISABLED FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 652, the owner may give preference for occupancy of units so reserved to disabled families who are near-elderly families and have applied for occupancy in the housing.

<< 42 USCA § 13614 >>

SEC. 654. GENERAL AVAILABILITY OF UNITS.

If an owner of a covered section 8 housing project in which disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 653 determines (in accordance with regulations established by the Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subtitle.

<< 42 USCA § 13615 >>

SEC. 655. PREFERENCE WITHIN GROUPS.

Among disabled families qualifying for occupancy in units reserved under section 652, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 651 or 653, preference for occupancy in units that are assisted under section 8 of the United States Housing Act of 1937 shall be given to disabled families according to the preferences for occupancy referred to in section 8(d)(1)(A)(i) of the United States Housing Act of 1937 and the first sentence of section 8(o)(3)(B) of such Act, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively.

<< 42 USCA § 13616 >>

SEC. 656. PROHIBITION OF EVICTIONS.

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 652 or any preference for occupancy established pursuant to this subtitle, is lawfully residing in a dwelling unit in a covered section 8 housing project, may not be evicted or otherwise required to vacate such unit because of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

<< 42 USCA § 13617 >>

SEC. 657. TREATMENT OF COVERED SECTION 8 HOUSING NOT SUBJECT TO ELDERLY PREFERENCE.

If an owner of any covered section 8 housing project designed primarily for occupancy by elderly families does not give preference in occupancy to elderly families as authorized in this subtitle, then elderly families (as such term was defined in section 3 of the United States Housing Act of 1937 before the date of the enactment of this Act) shall be eligible for occupancy in such housing to the same extent that such families were eligible before the date of the enactment of this Act.

<< 42 USCA § 13618 >>

SEC. 658. TREATMENT OF OTHER FEDERALLY ASSISTED HOUSING.

(a) RESTRICTED OCCUPANCY.—An owner of any federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 683(2) that was designed for occupancy by elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing.

(b) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in a housing project described in subsection (a) may not be evicted or otherwise required to vacate such unit because of any reservation or preferences under this subtitle or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

<< 42 USCA § 13619 >>

SEC. 659. COVERED SECTION 8 HOUSING.

For purposes of this subtitle, the term "covered section 8 housing" means housing described in section 683(2)(G) that was originally designed for occupancy by elderly families.

<< 42 USCA § 1437f >>

SEC. 660. SECTION 8 PREFERENCE.

Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

"(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.".

<< 42 USCA § 13620 >>

SEC. 661. STUDY.

The Secretary of Housing and Urban Development shall conduct a study to determine the extent to which Federal housing programs serve elderly families, disabled families, and families with children, in relation to the need of such families who are eligible for assistance under such programs. The Secretary shall submit a report to the Congress describing the study and the findings of the study not later than the expiration of the 1–year period beginning on the date of the enactment of this Act.

Subtitle E—Service Coordinators for Elderly and Disabled Residents of Federally Assisted Housing

<< 42 USCA § 13631 >>

SEC. 671. REQUIREMENTS TO PROVIDE SERVICE COORDINATORS.

(a) IN GENERAL.—To the extent that amounts are made available to carry out this subtitle pursuant to the amendments made by this subtitle, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise retaining the services of one or more individuals to coordinate the provision of supportive services for elderly and disabled families residing in the projects (in this section referred to as a "service coordinator"). No such elderly or disabled family may be required to accept services.

(b) RESPONSIBILITIES.—Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle or the amendments made by this subtitle—

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 802(d)(4) of the Cranston–Gonzalez National Affordable Housing Act; and

(5) may carry out other appropriate activities for residents of the project.

(c) INCLUDED SERVICES.—Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) COVERED FEDERALLY ASSISTED HOUSING.—For purposes of this subtitle, the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 683(2), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

<< 42 USCA § 8011 >>

SEC. 672. REQUIRED TRAINING OF SERVICE COORDINATORS.

Section 802(d)(4) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: "Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues.".

<< 42 USCA § 1437g >>

SEC. 673. COSTS OF PROVIDING SERVICE COORDINATORS IN PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

(1) in the first sentence, by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) in the second sentence—

(A) by striking "subparagraph" and inserting "clause";

(B) by inserting "or section 802 of the Cranston–Gonzalez National Affordable Housing Act" after "Congregate Housing Services Act of 1978"; and

(C) by inserting a period after "section 811 of the Cranston–Gonzalez National Affordable Housing Act";

(3) by inserting "(i)" after the subparagraph designation; and

(4) by adding at the end the following new clause:

"(ii) Annual contributions under this section to any public housing agency for any project may be used, with respect to such project, for (I) the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any supportive services within the project for residents of the project who are elderly families and disabled families, and (II) expenses for the provision of such services for such residents of the project. Not more than 15 percent of the cost of the provision of such services may be provided under this section. Services may not be provided under this clause for any person receiving assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston–Gonzalez National Affordable Housing Act. The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $30,000,000 on or after October 1, 1992, and by $30,000,000 on or after October 1, 1993. Amounts made available under this clause shall be used to provide

additional annual contributions to public housing agencies only for the purpose of providing service coordinators and services under this clause for public housing projects.”.

<< 42 USCA § 1437f >>

SEC. 674. COSTS OF PROVIDING SERVICE COORDINATORS IN PROJECT–BASED SECTION 8 HOUSING.

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

“(F)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

“(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.”.

<< 42 USCA § 1437f >>

SEC. 675. COSTS OF PROVIDING SERVICE COORDINATORS FOR FAMILIES RECEIVING FEDERAL TENANT–BASED ASSISTANCE.

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly families and disabled families on whose behalf tenant-based assistance is provided under this section or section 811(b)(1). Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

“(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

“(C) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $5,000,000 on or after October 1, 1992, and by $5,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).”.

<< 42 USCA § 13632 >>

SEC. 676. GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS IN MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.

(a) AUTHORITY.—The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (E) and (F) of section 683(2). Any grant amounts shall be used for the costs of employing or

otherwise retaining the services of one or more service coordinators under section 661 to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families (as such terms are defined in section 683 of this Act).

(b) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for grants under this section.

(d) ELIGIBLE PROJECT EXPENSE.—For any federally assisted housing project described in subparagraph (E) or (F) of section 683(2) that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

SEC. 677. EXPANDED RESPONSIBILITIES OF SERVICE COORDINATORS IN SECTION 202 HOUSING.

<< 12 USCA § 1701q >>

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by section 801 of the Cranston–Gonzalez National Affordable Housing Act, is amended—

(A) in paragraph (2), by striking the last sentence; and

(B) by adding at the end the following new paragraph:

"(3) SERVICE COORDINATORS.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston–Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.".

<< 12 USCA § 1701q NOTE >>

(b) OLD SECTION 202 PROJECTS.—

(1) AVAILABILITY OF SECTION 8 ASSISTANCE.—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 to be provided for a project assisted under section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendments made by section 801 of the Cranston–Gonzalez National Affordable Housing Act, the Secretary shall consider (and annually adjust for) the costs of—

(A) employing or otherwise retaining the services of one or more service coordinators under section 661 of this Act to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families; and

(B) expenses for the provision of such services.

Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

(2) INAPPLICABILITY OF HUD REFORM ACT PROVISIONS.—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989, the provisions of paragraphs (1), (2), and (3) of subsection (a) of such section shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

(3) LIMITATION.—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston–Gonzalez National Affordable Housing Act, the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable.

Subtitle F—General Provisions

<< 42 USCA § 12705 >>

SEC. 681. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) in paragraph (1) by inserting "persons with disabilities," after "the elderly,"; and

(2) by adding after paragraph (16), as added by the preceding provisions of this Act, the following new paragraph:

"(17) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.".

SEC. 682. CONFORMING AMENDMENTS.

<< 42 USCA § 1437d >>

(a) PUBLIC HOUSING.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.".

<< 42 USCA § 1437f >>

(b) PROJECT–BASED SECTION 8 HOUSING.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by section 664 of this Act, is further amended by adding at the end the following new subparagraphs:

"(G) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

"(H) Notwithstanding subsection (d)(1)(A)(i), an owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.".

<< 12 USCA § 1701q >>

(c) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston–Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (i)(1), by inserting after the first sentence the following new sentence: "Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."; and

(2) in subsection (j), by adding after paragraph (6) (as added by section 601(d) of this Act) the following new paragraph:

"(7) COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.".

<< 42 USCA § 13641 >>

SEC. 683. DEFINITIONS.

For purposes of this title:

(1) ELDERLY, DISABLED, AND NEAR–ELDERLY FAMILIES.—The terms "elderly family", "disabled family", and "near-elderly family" have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937.

(2) FEDERALLY ASSISTED HOUSING.—The terms "federally assisted housing" and "project" mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston–Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston–Gonzalez National Affordable Housing Act;

(E) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983, that is assisted under a contract for assistance under such section.

(3) HOUSING ASSISTANCE.—The term "housing assistance" means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) OWNER.—The term "owner" means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

<< 42 USCA § 13642 >>

SEC. 684. APPLICABILITY.

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6–month period beginning on the date of the enactment of this Act.

<< 42 USCA § 13643 >>

SEC. 685. REGULATIONS.

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title and the amendments made by such subtitles not later than the expiration of the 6–month period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

<< 42 USCA § 1483 >>

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a) IN GENERAL.—(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1993 and 1994, in aggregate amounts not to exceed $2,446,855,600 and $2,549,623,535, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low-income borrowers receiving assistance under section 521(a)(1), $1,676,484,000 for fiscal year 1993 and $1,746,896,328 for fiscal year 1994.

"(B) For guaranteed loans under section 502(h) on behalf of low- and moderate-income borrowers, such sums as may be appropriated for fiscal years 1993 and 1994.

"(C) For loans under section 504, $12,400,000 for fiscal year 1993 and $12,920,800 for fiscal year 1994.

"(D) For insured loans under section 514, $16,821,600 for fiscal year 1993 and $17,528,107 for fiscal year 1994.

"(E) For insured loans under section 515, $739,500,000 for fiscal year 1993 and $770,559,000 for fiscal year 1994.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1993 and $833,600 for fiscal year 1994.

"(G) For site loans under section 524, $850,000 for fiscal year 1993 and $885,700 for fiscal year 1994.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,100,000 for fiscal year 1993 and $1,146,200 for fiscal year 1994.

"(2) For grants under section 504, $21,100,000 for fiscal year 1993 and $21,986,200 for fiscal year 1994.

"(3) For purposes of section 509(c), $600,000 for fiscal year 1993 and $625,200 for fiscal year 1994.

"(4) For project preparation grants under section 509(f)(6), $5,300,000 in fiscal year 1993 and $5,522,600 in fiscal year 1994.

"(5) In fiscal years 1993 and 1994, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For grants for service coordinators under section 515(y), $1,000,000 in fiscal year 1993 and $1,042,000 in fiscal year 1994.

"(7) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $21,700,000 for fiscal year 1993 and $22,611,400 for fiscal year 1994; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,500,000 for fiscal year 1993 and $10,941,000 for fiscal year 1994.

"(8) For grants under section 523(f), $13,900,000 for fiscal year 1993 and $14,483,800 for fiscal year 1994.

"(9) For grants under section 533, $30,800,000 for fiscal year 1993 and $32,093,600 for fiscal year 1994.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c) RENTAL ASSISTANCE.—(1) The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $414,100,000 for fiscal year 1993 and $431,492,200 for fiscal year 1994.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into 5–year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $12,178,000 for fiscal year 1993 and $12,689,476 for fiscal year 1994.".

<< 42 USCA § 1485 >>

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

<< 42 USCA § 1483 >>

(f) RURAL HOUSING VOUCHER PROGRAM.—Section 513(e) of the Housing Act of 1949 (42 U.S.C. 1483(e)) is amended to read as follows:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for rural housing vouchers under section 542, $130,000,000 for fiscal year 1993 and $140,000,000 for fiscal year 1994.".

<< 42 USCA § 1472 >>

(g) DEFERRED MORTGAGE DEMONSTRATION.—Section 502(g)(3) of the Housing Act of 1949 (42 U.S.C. 1472(g)(3)) is amended by striking "1991 and 1992" and inserting "1993 and 1994".

SEC. 702. ELIGIBILITY OF HOMES ON LEASED LAND OWNED BY COMMUNITY LAND TRUSTS FOR SECTION 502 LOANS.

<< 42 USCA § 1472 >>

(a) ELIGIBILITY.—Section 502(a) of the Housing Act of 1949 (42 U.S.C. 1472(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this title, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

"(B) For purposes of this paragraph, the term 'community land trust' means a community housing development organization as such term is defined in section 104 of the Cranston–Gonzalez National Affordable Housing Act (except that the requirements under section 104(6)(C) and section 104(6)(D) shall not apply for purposes of this paragraph)—

"(i) that is not sponsored by a for-profit organization;

"(ii) that is established to carry out the activities under clause (iii);

"(iii) that—

"(I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and

"(iv) that has its corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization.".

<< 42 USCA § 1490a >>

(b) RECAPTURE.—Section 521(a)(1)(D) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 502(a)(3) for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of the dwelling based on any agreement between the borrower and the community land trust that limits the sale price or appreciation of the dwelling.".

<< 42 USCA § 1472 >>

SEC. 703. MAXIMUM INCOME OF BORROWERS UNDER GUARANTEED LOANS.

Section 502(h)(2) of the Housing Act of 1949 (42 U.S.C. 1472(h)(2)) is amended by inserting "115 percent of" after "exceed".

<< 42 USCA § 1472 >>

SEC. 704. REMOTE RURAL AREAS.

Section 502(f) of the Housing Act of 1949 (42 U.S.C. 1472(f)) is amended—

(1) in paragraph (1), by inserting "or on tribal allotted or Indian trust land" after "area"; and

(2) in paragraph (2), by inserting "or on tribal allotted or Indian trust land" before the period.

<< 42 USCA § 1479 >>

SEC. 705. DESIGNATION OF UNDERSERVED AREAS AND RESERVATION OF ASSISTANCE.

(a) REAUTHORIZATION OF DESIGNATION.—Section 509(f) of the Housing Act of 1949 (42 U.S.C. 1479(f)) is amended—

(1) in paragraph (1), by striking "in each of fiscal years 1991 and 1992" and inserting "in each fiscal year";

(2) in paragraph (2), by inserting at the end the following new flush sentence:

"In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land."; and

(3) in paragraph (4), by striking "an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992" and inserting "an amount equal to 5.0 percent in fiscal years 1993 and 1994".

(b) DEFINITION OF COLONIAS.—Section 509(f)(8) of the Housing Act of 1949 (42 U.S.C. 1479(f)(8)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston–Gonzalez National Affordable Housing Act.".

(c) COLONIAS REFINEMENTS.—Section 509(f)(4)(B)(ii) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(B)(ii)) is amended by inserting before "a colonia", the following ", or in close proximity to, and serving the residents of,".

SEC. 706. RURAL HOUSING VOUCHER PROGRAM.

Title V of the Housing Act of 1949 (42 U.S.C. 501 et seq.) is amended—

<< 42 USCA § 1490m >>

(1) in the last sentence of section 533(a) (42 U.S.C. 1490m(a)), by inserting after "1937" the following: "or section 542 of this title"; and

(2) by adding at the end the following new section:

<< 42 USCA § 1490r >>

"SEC. 542. RURAL HOUSING VOUCHER PROGRAM.

"(a) IN GENERAL.—To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a rural housing voucher program to assist very low-income families and persons to reside in rental housing in rural areas. For such purposes, the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area. The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly gross income.

"(b) COORDINATION AND LIMITATION.—In carrying out the rural housing voucher program under this section, the Secretary shall—

"(1) coordinate activities under this section with activities assisted under sections 515 and 533 of this title; and

"(2) enter into contracts for assistance for not more than 5000 units in any fiscal year.".

SEC. 707. RENTAL HOUSING LOANS.

<< 42 USCA § 1485 >>

(a) DEVELOPMENT COSTS.—Section 515(e)(4) of the Housing Act of 1949 (42 U.S.C. 1485(e)(4)) is amended—

(1) by striking "and" before "initial";

(2) by inserting before the first period the following: ", impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments"; and

(3) by inserting after the period at the end the following new sentence: "Notwithstanding the first sentence of this paragraph, the term 'development cost' shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986.".

(b) COORDINATION OF LOANS AND RENTAL ASSISTANCE PAYMENTS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"(1) in the case of any applicant who applies for rental assistance payments under section 521 in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and"; and

(2) in subsection (p)—

(1) in paragraph (4), by striking ", except" in the first sentence and all that follows through the end of the paragraph and inserting a period; and

(2) by inserting at the end the following new paragraph:

"(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 521(a)(2) with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 521(a)(2) for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.".

(c) EQUITY CONTRIBUTION.—Section 515(r)(2) of the Housing Act of 1949 (42 U.S.C. 1485(r)(2)) is amended by inserting before the period at the end the following: ", except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986".

(d) UNIFORM PROJECT COSTS AND COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(x) UNIFORM PROJECT COSTS; COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.—The Secretary shall—

"(1) establish standard guidelines for State offices that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

"(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act and a low-income housing tax credit allocation plan under section 42 of the Internal Revenue Code of 1986; and

"(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of the Internal Revenue Code of 1986), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of the Internal Revenue Code of 1986 for the purpose of achieving

compliance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)).".

(e) GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

"(y) SERVICE COORDINATORS.—

"(1) GRANTS.—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a 'service coordinator'), who shall be responsible for—

"(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) QUALIFICATIONS.—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston–Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) DEFINITION OF FRAIL ELDERLY.—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston–Gonzalez National Affordable Housing Act.".

(f) PROHIBITIONS REGARDING CONSIDERATIONS IN MAKING LOANS.—

(1) IN GENERAL.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

"(z) PROHIBITIONS.—

"(1) REMOTE RURAL AREAS.—The Secretary may not refuse to make a loan that otherwise complies with the requirements under this section solely because the housing and related facilities involved are located in an area that is excessively rural in character or excessively remote.

"(2) ESSENTIAL SERVICES.—In making loans under this section, the Secretary may not provide any preference for any project based on the availability of any particular essential service. For purposes of this paragraph, an essential service shall include post offices (and postal services), grocery stores, pharmacies, schools, and health service facilities (and health services).

"(3) GEOGRAPHIC LOCATION.—In making loans under this section, the Secretary may not grant or deny approval based on the geographic location of the proposed project if the project is located in a rural area, as such term is defined in section 520, except that the Secretary shall give preference to any application for a project that will serve the needs of a rural community located 20 or more miles from an urban area.".

<< 42 USCA § 1485 NOTE >>

(2) REGULATIONS.—The Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by paragraph (1) not later than the expiration of the 45–day period beginning on the date of the enactment of this Act. Not later than the expiration of the 30–day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 and subsections (b) and (c) of section 553 of title 5, United States Code, shall apply to any such regulations.

<< 42 USCA § 1487 >>

(g) INDEPENDENT COST CERTIFICATIONS.—Section 517(j)(3) of the Housing Act of 1949 (42 U.S.C. 1487(j)(3)) is amended by inserting after "industry," the following: "independent audits of project expenses,".

SEC. 708. NONPROFIT SET–ASIDE.

<< 42 USCA § 1485 >>

(a) IN GENERAL.—Section 515(w) of the Housing Act of 1949 (42 U.S.C. 1485(w)) is amended—

(1) in paragraph (1), by striking "not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992" and inserting "not less than 9 percent of the amounts available in fiscal years 1993 and 1994";

(2) in paragraph (1), in the second sentence by striking "or under whole or partial control with a for-profit entity";

(3) in paragraph (1), by adding at the end the following new sentence: "A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this subsection, a nonprofit entity is an organization that—

"(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

"(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

"(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

"(D) is not affiliated with or controlled by a for-profit organization.";

(4) in paragraph (2), by adding at the end the following: "The Secretary may provide amounts available for reallocation under this subsection in excess of $750,000 in a given State. if such amounts are necessary to finance a project under this section."; and

(5) by striking paragraph (3) and inserting the following:

"(3) UNUSED AMOUNTS.—

"(A) EQUITABLE DISTRIBUTION.—Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

"(B) RETURN TO THE STATES.—After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.".

<< 42 USCA § 1485 NOTE >>

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(5) shall take effect on October 1, 1993, and shall apply to fiscal year 1994 and each fiscal year thereafter.

<< 42 USCA § 1490 >>

SEC. 709. CONSIDERATION OF CERTAIN AREAS AS RURAL AREAS.

Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this title.".

<< 42 USCA § 1490c >>

SEC. 710. PERMANENT AUTHORITY FOR SECTION 523.

Section 523 of the Housing Act of 1949 (42 U.S.C. 1490c) is amended—

(1) in subsection (b)(1)(A), by inserting after "efforts" the following: ", including the repair of units financed under section 502 that are being held in inventory"; and

(2) by striking subsection (f).

<< 42 USCA § 1490m >>

SEC. 711. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING.

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) in subsection (a)—

(A) by inserting "or replace" after "rehabilitate" each place it appears; and

(B) in the second sentence, by inserting "or replaced" after "rehabilitated";

(2) in subsection (b)—

(A) by striking "Rehabilitation programs" and inserting "Preservation programs";

(B) in paragraph (3), by inserting "or replacement" after "rehabilitation" each place it appears;

(C) in paragraph (4), by striking "repair and rehabilitation" and inserting "repair, rehabilitation, and replacement";

(D) by redesignating paragraphs (2) through (6) (as amended by this paragraph) as paragraphs (3) through (7), respectively; and

(E) by inserting after paragraph (1) the following new paragraph:

"(2) be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 502 for replacement housing;";

(3) in the first sentence of subsection (c)(1), by striking "rehabilitation grant funds" and inserting "grant funds under this section"; and

(4) in subsection (d)—

(A) in paragraph (1), by striking "rehabilitation program" and inserting "preservation program";

(B) in paragraphs (3)(A), (3)(B), and (3)(D), by striking "repair and rehabilitation" each place it appears and inserting "repair, rehabilitation, and replacement";

(C) in paragraph (4), by inserting ", or replacement," after "repair and rehabilitation"; and

(D) by adding at the end the following new paragraph:

"(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

"(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

"(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 502; and

"(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford.".

SEC. 712. PRESERVATION.

<< 42 USCA § 1472 >>

(a) APPLICABILITY.—Section 502(c) of the Housing Act of 1949 (42 U.S.C. 1472(c)) is amended—

(1) in subparagraph (2), by striking "before December 21, 1979," and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(2) in subparagraph (4)(A), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(3) in subparagraph (5)(F), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989"; and

(4) in subparagraph (5)(G), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989".

(b) INCENTIVES.—Section 502(c)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)) is amended by adding the following new clause:

"(vi) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.".

<< 42 USCA § 1490p–1 >>

(c) OFFICE OF RURAL HOUSING PRESERVATION.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by inserting after section 536 the following:

"SEC. 537. OFFICE OF RURAL HOUSING PRESERVATION.

"(a) ESTABLISHMENT.—There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director designated by the Secretary of Agriculture.

"(b) PURPOSES.—The purposes of the Office are:

"(1) to review and process applications under section 502(c) and section 515(t) related to the preservation of rural rental housing;

"(2) to provide technical or financial assistance to any other projects needing such assistance;

"(3) to coordinate and direct all other activities related to the preservation of rural housing; and

"(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.".

<< 42 USCA § 1490q >>

SEC. 713. DISASTER ASSISTANCE.

Section 541(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490q(a)(1)) is amended in the first sentence by striking "amounts available under this title" and inserting "amounts made available to the Secretary by an appropriations Act for such purpose".

<< 42 USCA § 1471 >>

SEC. 714. PROHIBITION ON TRANSFER OF RURAL HOUSING PROGRAMS.

Section 501 of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following new subsection:

"(j) PROGRAM TRANSFERS.—Notwithstanding any other provision of law, the Secretary shall not transfer any program authorized by this title to the Rural Development Administration.".

<< 42 USCA § 1490d >>

SEC. 715. SITE ACQUISITION AND DEVELOPMENT.

Section 524(a) of the Housing Act of 1949 (42 U.S.C. 1490d(a)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Secretary" in the first sentence; and

(2) by adding at the end the following:

"(2) REVOLVING FUNDS.—The Secretary may make grants to nonprofit housing agencies to establish revolving loan funds for the acquisition and preparation of building sites for low-income housing. Any proceeds and repayments from such loans shall be returned to the revolving loan fund to be used for purposes related to this section. Loan funds and interest payments shall be used solely for the acquisition of land; the preparation of land for building sites; the payment of reimbursable legal and technical costs; and technical assistance and administrative costs, not to exceed 10 percent of the fund.".

SEC. 716. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

<< 42 USCA § 1490*o* >>

(a) EXTENSION OF AUTHORITY.—Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490*o*(b)) is amended by striking the last sentence and inserting the following new sentence: "This subsection shall not apply after June 15, 1993.".

<< 42 USCA § 1490*o* NOTE >>

(b) RETROACTIVITY.—Any administrative approval of any housing subdivision made after the expiration of the 18–month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

<< 42 USCA § 1490*o* >>

(c) APPROVAL BY LOCAL, COUNTY, OR STATE AGENCIES.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490*o*) is amended by adding at the end the following new subsection:

"(d) For loans made under this title, the Secretary may accept subdivisions that have been approved by local, county, or State agencies.".

TITLE VIII—COMMUNITY DEVELOPMENT

Subtitle A—Community Development Block Grants

SEC. 801. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

<< 42 USCA § 5308 >>

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second and third sentences and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $4,000,000,000 for fiscal year 1993 and $4,168,000,000 for fiscal year 1994.

<< 42 USCA § 5308 >>

(b) LIMITATION ON LOAN GUARANTEES.—The fifth sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $2,000,000,000 for fiscal year 1993 and $2,000,000,000 for fiscal year 1994.".

(c) SPECIAL PURPOSE GRANTS.—

<< 42 USCA § 5307 >>

(1) SET–ASIDE.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by striking "SEC. 107. (a)" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 107. (a) SET–ASIDE.—

"(1) IN GENERAL.—For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 103 for the fiscal year, $60,000,000 shall be set aside for grants under subsection (b) for such year for the following purposes:

"(A) $7,000,000 shall be available for grants under subsection (b)(1);

"(B) $6,500,000 shall be available for grants under subsection (b)(3);
"(C) $6,000,000 shall be available for grants under subsection (b)(5);
"(D) $6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7);
"(E) $3,000,000 shall be available for grants under subsection (c);
"(F) such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) of subsection (b);
"(G) $2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with $2,000,000 of additional funds;
"(H) $15,000,000 shall be available for grants under the Removal of Regulatory Barriers to Affordable Housing Act of 1992; and
"(I) $7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.
"(2) TREATMENT OF GRANTS.—Any grants made under this section shall be in addition to any other grants that may be made under this title to the same entities for the same purposes.".
(2) OTHER PURPOSES.—Section 107(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)) is amended—
(A) in paragraph (3), by striking "and" at the end;
(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and
(C) by adding at the end the following:
"(5) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this title, except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;
"(6) to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 105, required—
"(A) by the proposed or actual establishment, realignment, or closure of a military installation,
"(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or
"(C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5–year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government; and
"(7) for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area.".

<< 42 USCA § 5307 NOTE >>

(3) REGULATIONS.—Not later than the expiration of the 60–day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue proposed regulations to carry out section 107(b)(6) of the Housing and Community Development Act of 1974, as added by subsection (c)(2) of this section. The Secretary shall issue final regulations to carry out section 107(b)(6) not later than the expiration of the 120–day period beginning on the date of the enactment of this Act and after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Such final regulations shall take effect 30 days after issuance.

<< 42 USCA § 5307 >>

(4) CONFORMING AMENDMENT.—Section 107(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(c)) is amended by striking "to the extent" and all that follows up to "grants to institutions" and inserting "make".

(d) GRANT ACTIVITIES.—The special purpose grant of the City of Dubuque, Iowa, under Public Law 102–139 may be used for land acquisition, new construction, relocation assistance payments, and rehabilitation for housing of low- and moderate-income families.

SEC. 802. UNITS OF GENERAL LOCAL GOVERNMENT.

<< 42 USCA § 5302 >>

(a) DEFINITION.—Section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)) is amended by striking "recognized by the Secretary" and inserting the following: "that, except as provided in section 106(d)(4), is recognized by the Secretary".

<< 42 USCA § 5306 >>

(b) GRANTS TO NONENTITLEMENT AREAS.—Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 102(a)(1) to be treated as a single unit of general local government for purposes of this subsection.".

<< 42 USCA § 5302 >>

SEC. 803. URBAN COUNTIES.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93–552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities.".

<< 42 USCA § 5304 >>

SEC. 804. RETENTION OF PROGRAM INCOME.

The first sentence of section 104(j) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(j)) is amended—

(1) by striking "while the unit of general local government is participating in a community development program under this title"; and

(2) by inserting before the period at the end the following: "; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government".

<< 42 USCA § 5305 >>

SEC. 805. ECONOMIC DEVELOPMENT.

(b) Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

"(d) TRAINING PROGRAM.—The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) for the purpose of ensuring that (A) such personnel possess a thorough understanding of such activities; and (B) regulations and guidelines are implemented in a consistent fashion.".

SEC. 806. EVALUATION, SELECTION, AND REVIEW OF ECONOMIC DEVELOPMENT PROJECTS.

<< 42 USCA § 5305 >>

(a) GUIDELINES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 805, is amended by adding at the end the following new subsection:

"(e) GUIDELINES FOR EVALUATING AND SELECTING ECONOMIC DEVELOPMENT PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a (14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this title for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

"(2) PROJECT COSTS AND FINANCIAL REQUIREMENTS.—The guidelines established under this subsection shall include the following objectives:

"(A) The project costs of such activities are reasonable.

"(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.

"(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

"(D) Such activities are financially feasible.

"(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

"(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

"(3) PUBLIC BENEFIT.—The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this title.".

(b) ASSISTANCE TO FOR–PROFIT ENTITIES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by subsection (a), is amended by inserting at the end the following new subsection:

"(f) ASSISTANCE TO FOR–PROFIT ENTITIES.—In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.".

<< 42 USCA § 5305 NOTE >>

(c) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the use of grant amounts under title I of the Housing and Community Development Act of 1974 for activities described in paragraphs (14), (15), and (17) of section 105(a) of such Act. The study shall evaluate whether the activities for which such amounts are being used under such paragraphs further the goals and objectives of such program, as established in section 101 of such Act. The Comptroller General shall submit a report to the Congress regarding the findings of the study not later than the expiration of the 18–month period beginning on the date of the enactment of this Act. The report shall include recommendations of—

(1) any administrative or legislative actions that may be taken to ensure that such grant amounts are properly and efficiently used for economic development activities; and

(2) criteria by which to evaluate the effectiveness of activities assisted under paragraphs (14), (15), and (17) of such section 105(a).

(d) ENHANCING JOB QUALITY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the types and quality of jobs created or retained through assistance provided pursuant to title I of the Housing and Community Development Act of 1974 and the extent to which projects and activities assisted under

that title enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefited by such projects and activities.

<< 42 USCA § 5305 >>

(e) REBUILDING DISTRESSED NEIGHBORHOODS.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following new paragraph:

"(4) For the purposes of subsection (c)(1)(C)—

"(A) if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

"(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.".

SEC. 807. ELIGIBLE ACTIVITIES.

<< 42 USCA § 5305 >>

(a) ADDITIONAL ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (8), by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in each of fiscal years 1993 through 1997 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph";

(2) in paragraph (19), by striking "and" at the end;

(3) by redesignating paragraph (20) as paragraph (25); and

(4) by inserting after paragraph (19) the following new paragraphs:

"(20) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

"(21) housing services, such as housing counseling, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities authorized under this section, or under title II of the Cranston–Gonzalez National Affordable Housing Act, except that activities under this paragraph shall be subject to any limitation on administrative expenses imposed by any law;

"(22) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

"(23) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

"(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

"(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

"(24) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods; and".

<< 42 USCA § 5305 NOTE >>

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—Section 907(b)(2) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1994";

(2) by striking "October 1, 1993" and inserting "October 1, 1995"; and

(3) by striking "(18)", "(19)", and "(20)" and inserting "(23)", "(24)", and "(25)", respectively.

(c) MICROENTERPRISES AND SMALL BUSINESS DEVELOPMENT INITIATIVE.—

<< 42 USCA § 5305 >>

(1) IN GENERAL.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 806, is further amended by adding at the end the following new subsection:

"(g) MICROENTERPRISE AND SMALL BUSINESS PROGRAM REQUIREMENTS.—In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) to a microenterprise or small business, the Secretary shall—

"(1) take into account the special needs and limitations arising from the size of the entity; and

"(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to section 105(a)(12) or an administrative cost pursuant to section 105(a)(13).".

<< 42 USCA § 5302 >>

(2) DEFINITIONS.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraphs:

"(22) The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(23) The term 'small business' means a business that meets the criteria set forth in section 3(a) of the Small Business Act.".

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each grantee under title I of the Housing and Community Development Act of 1974 should reserve 1 percent of any grant amounts the grantee receives in each fiscal year for the purpose of providing assistance under section 105(a)(23) of such Act to facilitate economic development through commercial microenterprises.

<< 42 USCA § 5305 NOTE >>

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the effectiveness of assistance provided through title I of the Housing and Community Development Act of 1974 in promoting development of microenterprises, including a review of any statutory or regulatory provision that impedes the development of microenterprises.

<< 42 USCA § 5305 >>

(d) LOANS OF CDBG FUNDS.—Section 105(a)(14) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(14)) is amended by inserting before "activities" the following: "provision of assistance including loans (both interim and long-term) and grants for".

(e) CDBG CODE ENFORCEMENT.—Section 105(a)(3) of the Housing and Community Development Act of 1974 is amended by striking "improvements and" and inserting "or private improvements or".

(f) NEIGHBORHOOD–BASED NONPROFIT ORGANIZATIONS.—Section 105(a)(15) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(15)) is amended by inserting after "corporations," the following: "nonprofit organizations serving the development needs of the communities in nonentitlement areas,".

<< 42 USCA §§ 5304, 5306, 5307 >>

SEC. 808. REFERENCE TO FAIR HOUSING ACT.

Sections 104(b)(2), 106(d)(5)(B), and 107(e)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(2), 5306(d)(5)(B), and 5307(e)(1)) are each amended by striking "Public Law 88–352 and Public Law 90–284" and inserting "the Civil Rights Act of 1964 and the Fair Housing Act".

<< 42 USCA § 5305 >>

SEC. 809. ELIGIBILITY OF ENTERPRISE ZONES.

Section 105(a)(13) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "(13)" the following: "payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and".

<< 42 USCA § 5306 NOTE >>

SEC. 810. ASSISTANCE FOR COLONIAS.

(a) ELIGIBLE ACTIVITIES.—Section 916 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(3) OTHER IMPROVEMENTS.—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias."; and

(2) in subsection (f), by striking "and 1993" and inserting "1993, and 1994".

(b) DEFINITION OF COLONIA.—Section 916(e)(1) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston–Gonzalez National Affordable Housing Act.".

<< 42 USCA § 5306 >>

SEC. 811. STATE SET–ASIDE FOR TECHNICAL ASSISTANCE.

Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (4), as added by section 802, the following:

"(5) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.".

<< 42 USCA § 5304 >>

SEC. 812. COMMUNITY DEVELOPMENT PLANS AND REPORTS.

(a) IN GENERAL.—Subsection (l) of section 104 of the Housing and Community Development Act of 1974, as added by section 922 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 5304(l)), is amended to read as follows:

"(m) COMMUNITY DEVELOPMENT PLANS.—

"(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this title.

"(2) LOCAL GOVERNMENTS.—In the case of a recipient that is a unit of general local government—

"(A) prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and

"(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

"(3) STATES.—In the case of a recipient that is a State, the description required by paragraph (1)—

"(A) shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this title; and

"(B) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(4) EFFECT OF SUBMISSION.—A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.".

(b) CONFORMING AMENDMENTS.—Section 104(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(4)) is amended—

(1) by inserting "pursuant to subsection (m)" before the first comma; and

(2) by striking "and housing".

SEC. 813. DELAY USE OF 1990 CENSUS HOUSING DATA TO EXAMINE EFFECT ON TARGETING FOR CDBG FORMULA.

Notwithstanding any other provision of law, for fiscal year 1993, no data derived from the 1990 Decennial Census, except those relating to population and poverty, shall be taken into account for purposes of the allocation of amounts under section 106 of the Housing and Community Development Act of 1974.

Subtitle B—Other Community Development Programs

<< 42 USCA § 8107 >>

SEC. 831. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 608(a)(1) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows: "There are authorized to be appropriated to the corporation to carry out this title $29,476,000 for fiscal year 1993 and $30,713,992 for fiscal year 1994.".

(b) EXPANDED PROGRAMS.—The matter preceding subparagraph (A) of section 608(a)(2) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)(2)) is amended by striking "each of the fiscal years 1991 and 1992" and inserting "any fiscal year".

<< 42 USCA § 5318 NOTE >>

<< 42 USCA § 5318a >>

SEC. 832. NEIGHBORHOOD DEVELOPMENT PROGRAM.

(a) AUTHORIZATION.—Section 123(g) of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) AUTHORIZATION.—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and $3,000,000 for fiscal year 1994 shall be available to carry out this section.".

(b) PERMANENT PROGRAM.—Section 123 of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking the section heading and inserting the following new heading:

"JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM";

(2) by striking "demonstration program" each place it appears and inserting "program";

(3) in subsection (b)(1), by striking "determine the feasibility of supporting" and inserting "support";

(4) in subsection (e)(3), by inserting after "year" the following: ", except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization";

(5) in subsection (e)(6)—

(A) in subparagraph (C), by inserting "and" after the semicolon at the end;

(B) by striking subparagraph (D);

(C) by redesignating subparagraph (E) as subparagraph (D); and

(D) in subparagraph (D), as so redesignated, by striking "demonstration" and inserting "program";

(6) by striking subsection (f) and inserting the following new subsection:

"(f) The Secretary shall submit a report to the Congress, not later than 3 months after the end of each fiscal year in which payments are made under this section, regarding the program under this section. The report shall contain a summary of the activities carried out under this section during such fiscal year and any findings, conclusions, and recommendations for legislation regarding the program."; and

(7) by adding at the end the following new subsection:

"(h) SHORT TITLE.—This section may be cited as the 'John Heinz Neighborhood Development Act'.".

(c) COMPLIANCE WITH CHAS AND COMMUNITY DEVELOPMENT PLANS.—Section 123(e)(5)(A) of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended by striking "housing and community development plans of such unit" and inserting "comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston–Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted under section 104(m) of the Housing and Community Development Act of 1974".

(d) ELIGIBLE NEIGHBORHOOD DEVELOPMENT ORGANIZATION.—Section 123(a)(2) of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subparagraph (A), by inserting "(i)" after "(A)";

(2) in subparagraph (E), by striking the period at the end and inserting "; or";

(3) by redesignating subparagraphs (B) through (E) as clauses (ii) through (v), respectively; and

(4) by adding at the end the following new subparagraph:

"(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).".

(e) DEFINITIONS.—Section 123(a) of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subparagraph (2)(A)(iv) (as so redesignated by subsection (d) of this section) and inserting the following new clause:

"(iv) an organization that operates within an area that—

"(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

"(II) is designated as an enterprise zone under Federal law;

"(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

"(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting before paragraph (4) (as so redesignated) the following new paragraph:

"(3) The term 'neighborhood development funding organization' means—

"(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

"(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

"(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.".

(f) COORDINATION WITH COMMUNITY DEVELOPMENT FUNDING ORGANIZATIONS.—Section 123 of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (b)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhoods";

(2) in subsection (b)(3)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting the following: ", especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

"(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and"; and

(C) by adding at the end the following new subparagraph:

"(D) specify a strategy for increasing the capacity of the organization.";

(3) in subsection (c)(3), by inserting before the semicolon the following: "and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(A) is located in an neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

"(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation"; and

(4) in subsection (e)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhood".

(g) ADMINISTRATIVE CHANGES.—Section 123 of the Housing and Urban–Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (a)(2)(A)(iii), as so redesignated by subsection (d) of this section, by striking "three years" and inserting "one year"; and

(2) in subsection (b)(2), by striking "Not more than 30 per centum" and inserting "For fiscal year 1993 and thereafter, not more than 50 percent".

SEC. 833. STUDY REGARDING HOUSING TECHNOLOGY RESEARCH.

(a) STUDY.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Policy Development and Research, shall conduct a study of—

(1) the extent of Federal, other public, and private basic research in the United States in housing technology, including design and construction techniques and methodology, smart building technology, area and neighborhood planning, and other areas relating to the preservation and production of affordable housing and livable communities;

(2) the extent of competitiveness of the United States in the field of basic housing technology research in comparison with other countries that are substantially involved in trade with the United States, taking into consideration the balance of trade, the degree of government support of private research activities, and the degree of fragmentation of research; and

(3) the types of research projects regarding basic housing technology conducted by such other countries, the results of such research, and the extent of success in applying and marketing such results.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress describing the results of the study conducted under this section not later than September 30, 1993.

SEC. 834. DESIGNATION OF ENTERPRISE ZONES.

<< 42 USCA § 11501 >>

(a) IN GENERAL.—Section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501) is amended—

(1) in subsection (a)(4)(B), by striking "the effective date of the regulations described in subparagraph (A) occurs" and inserting "the date of the enactment of the Housing and Community Development Act of 1992 occurs"; and

(2) in subsection (c)(3)(B), by striking "this Act" and inserting "the Housing and Community Development Act of 1992".

<< 42 USCA § 11502 >>

(b) REPORT.—Section 702 of the Housing and Community Development Act of 1987 (42 U.S.C. 11502) is amended by inserting "pursuant to the amendments made by section 834 of the Housing and Community Development Act of 1992" before the first comma.

Subtitle C—Miscellaneous Programs

<< 42 USCA § 5307 NOTE >>

SEC. 851. COMMUNITY OUTREACH ACT.

(a) SHORT TITLE.—This section may be cited as the "Community Outreach Partnership Act of 1992".

(b) PURPOSE.—The Secretary shall carry out, in accordance with this section, a 5–year demonstration program to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and the exchange of information.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas.

(2) USE OF GRANTS.—Grants under this Act shall be used to establish and operate Community Outreach Partnership Centers (hereafter in this section referred to as "Centers") which shall—

(A) conduct competent and qualified research and investigations on theoretical or practical problems in large and small cities; and

(B) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

(3) SPECIFIC PROBLEMS.—Research and outreach activities assisted under this Act shall focus on problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary.

(d) APPLICATION.—Any public or private nonprofit institution of higher education may submit an application for a grant under this section in such form and containing such information as the Secretary may require by regulation.

(e) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(A) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of this section.

(B) The capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems.

(C) The demonstrated commitment of the applicant to supporting urban research and outreach programs by providing matching contributions for any Federal assistance received.

(D) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other Centers and communities served through the demonstration program.

(E) The projects and activities that the applicant proposes to carry out under the grant.

(F) The effectiveness of the applicant's strategy to provide outreach activities to communities.

(G) The extent of need in the communities to be served by the Centers.

(H) Other criteria deemed appropriate by the Secretary.

(2) PREFERENCE.—The Secretary shall give preference to institutions of higher education that undertake research and outreach activities by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems.

(f) FEDERAL SHARES.—The Federal share of a grant under this section shall not be more than—

(1) 50 percent of the cost of establishing and operating a Center's research activities; and

(2) 75 percent of the cost of establishing and operating a Center's outreach activities.

(g) NON–FEDERAL SHARES.—The non-Federal share of a grant may include cash, or the value of non-cash contributions, equipment, or other in-kind contributions deemed appropriate by the Secretary.

(h) RESPONSIBILITIES.—A Center established under this section shall—

(1) employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(2) establish outreach activities in areas identified in the grant application as the communities to be served;

(3) establish a community advisory committee comprised of representatives of local institutions and residents of the communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) coordinate outreach activities in communities to be served by the Center;

(5) facilitate public service projects in the communities served by the Center;

(6) act as a clearinghouse for the dissemination of information;

(7) develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) exchange information with other Centers.

(i) NATIONAL ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a national advisory council (hereafter in this section referred to as the “council”) to—

(A) disseminate the results of research and outreach activities carried out under this section;

(B) act as a clearinghouse between grant recipients and other institutions of higher education; and

(C) review and evaluate programs carried out by grant recipients.

(2) MEMBERS.—The council shall be composed of 12 members to be appointed by the Secretary as follows—

(A) 3 representatives of State and local governments;

(B) 3 representatives of institutions of higher education that receive grants under this section;

(C) 3 individuals or representatives of organizations that possess significant expertise in urban issues; and

(D) 3 representatives from community advisory committees created pursuant to this section.

(3) VACANCIES.—A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—Members of the council shall serve without pay.

(5) CHAIRMAN.—The council shall elect a member to serve as chairperson of the council.

(6) MEETINGS.—The council shall meet at least biannually and at such other times as the chairman may designate.

(j) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse to disseminate information resulting from the research and successful outreach activities developed through the Centers to grant recipients and other interested institutions of higher education.

(k) AUTHORIZATIONS.—The sums set aside by section 107 of the Housing and Community Development Act of 1974 for the purpose of this section shall be available—

(1) to enable Centers to carry out research and outreach activities;

(2) to establish and operate the national clearinghouse to be established under subsection (j).

(l) REPORTING.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall contain a summary of the activities carried out under this section during the preceding fiscal year, and findings and conclusions drawn from such activities.

<< 42 USCA § 5304 NOTE >>

SEC. 852. COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—Not later than the expiration of the 1–year period beginning on the date appropriations for the purposes of this section are made available, the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish and implement a demonstration program to determine the feasibility of assisting States and units of general local government to develop methods, utilizing contemporary computer technology, to—

(1) monitor, inventory, and maintain current listings of the community development needs of the States and units of general local government; and

(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs.

(b) INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.—

(1) DEVELOPMENT AND PURPOSES.—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to priority nonhousing community development needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 and to process any information necessary for such plans.

(2) AVAILABILITY TO STATES.—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

(3) COORDINATION WITH EXISTING TECHNOLOGY.—The Secretary shall, to the extent practicable, utilize existing technologies and coordinate such activities with existing data systems to prevent duplication.

(c) TECHNICAL ASSISTANCE.—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assistance in installing and using the database system and mapping tool.

(d) GRANTS.—

(1) AUTHORITY AND PURPOSE.—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (g), make grants to States for capital costs relating to installation and use of the integrated database system and computer mapping tool developed pursuant to subsection (b).

(2) LIMITATIONS.—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding $1,000,000.

(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States which have submitted applications to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

(e) STATE COORDINATION OF LOCAL NEEDS.—Each State that receives a grant under subsection (d) shall annually submit to the Secretary a report containing a summary of the priority nonhousing community development needs within the State.

(f) REPORTS BY SECRETARY.—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs of the House of Representatives and Banking, Housing, and Urban Affairs of the Senate, a report containing a summary of the information submitted for the year by States pursuant to subsection (e), which shall describe the priority nonhousing community development needs within such States.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1993 and 1994, $10,000,000 to carry out the program established under this section.

<< 42 USCA § 5305 NOTE >>

SEC. 853. COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.

(a) SHORT TITLE.—This section may be cited as the "Community Investment Corporation Demonstration Act".

(b) COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.—

(1) FINDINGS.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems arising from lack of growth; growing numbers of low-income persons and persons living in poverty; lack of employment and other opportunities to improve the quality of life of these residents; and lack of capital for business located in, or seeking to locate in these communities;

(B) the future well-being of the United States and its residents depends on the restoration and maintenance of viable local economies, and will require increased public and private investment in low-income housing, business development, and economic and community development activities, and technical assistance to local organizations carrying out revitalization strategies;

(C) lack of expertise and technical capacity can significantly limit the ability of residents and local institutions to effectively carry out revitalization strategies;

(D) the Federal Government needs to develop new models for facilitating local revitalization activities;

(E) indigenous community-based financial institutions play a significant role in identifying and responding to community needs; and

(F) institutions, such as South Shore Bank (Chicago, Illinois), Southern Development Bancorporation (Arkadelphia, Arkansas), Center for Community Self Help (Durham, North Carolina), and Community Capital Bank (Brooklyn, New York), with a primary mission of promoting community development have proven their ability to promote revitalization and are appropriate models for restoring economic stability and growth in distressed communities and neighborhoods.

(2) PURPOSES.—The demonstration program carried out under this section shall—

(A) improve access to capital for initiatives which benefit residents and businesses in targeted geographic areas; and

(B) test new models for bringing credit and investment capital to targeted geographic areas and low-income persons in such areas through the provision of assistance for capital, development services, and technical assistance.

(3) DEFINITIONS.—As used in this section—

(A) the term "Federal financial supervisory agency" means—

(i) the Comptroller of the Currency with respect to national banks;

(ii) the Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(iii) the Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation;

(iv) the National Credit Union Administration Board with respect to insured credit union associations; and

(v) the Office of Thrift Supervision with respect to insured savings associations and savings and loan holding companies that are not bank holding companies;

(B) the term "community investment corporation" means an eligible organization selected by the Secretary to receive assistance pursuant to this section;

(C) the term "development services" means activities that are consistent with the purposes of this section and which support and strengthen the lending and investment activities undertaken by eligible organizations including—

(i) the development of real estate;

(ii) administrative activities associated with the extension of credit or necessary to make an investment;

(iii) marketing and management assistance;

(iv) business planning and counseling services; and

(v) other capacity building activities which enable borrowers, prospective borrowers, or entities in which eligible organizations have invested, or expect to invest, to improve the likelihood of success of their activities;

(D) the term "eligible organization" means an entity—

(i) that is organized as—

(I) a depository institution holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); or

(II) a nonprofit organization—

(aa) that is organized under State law,

(bb) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(cc) complies with standards of financial accountability acceptable to the Secretary; and

(dd) is affiliated with a nondepository lending institution; or is affiliated with a regulated financial institution but is not a subsidiary thereof;

(ii) that has as its primary mission the revitalization of a targeted geographic area;

(iii) that maintains, through significant representation on its governing board and otherwise, accountability to community residents;

(iv) that has principals active in the implementation of its programs who possess significant experience in lending and the development of affordable housing, small business development, or community revitalization;

(v) that directly or through a subsidiary or affiliate carries out development services; and

(vi) that will match any assistance received dollar-for-dollar with non-Federal sources of funds;

(E) the term "equity investment" means a capital contribution through the purchase of nonvoting common stock or through equity grants or contributions to capital reserves or surplus, subject to terms and conditions satisfactory to the Secretary;

(F) the term "low-income person" means a person in a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(G) the term "regulated financial institution" means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

(H) the term "Secretary" means the Secretary of Housing and Urban Development;

(I) the term "targeted geographic area" means a geographically contiguous area of chronic economic distress, as measured by unemployment, growth lag, poverty, lag in growth of per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible organization as the area to be served by it; and

(J) an entity is an "affiliate" of another entity if the first entity controls, is controlled by, or is under common control with the other entity.

(4) SELECTION CRITERIA.—The Secretary shall select eligible organizations from among applications submitted to participate in the demonstration program, using selection criteria based on—

(A) the capacity of the eligible organizations to carry out the purposes of this section;

(B) the range and comprehensiveness of lending, investment strategies, and development services to be offered by the organizations directly or through subsidiaries and affiliates thereof;

(C) the types of activities to be pursued, including lending and development of small business, agriculture, industrial, commercial, or residential projects;

(D) the extent of need in the targeted geographic area to be served;

(E) the experience and background of the principals at each eligible organization responsible for carrying out the purposes of this section;

(F) the extent to which the eligible organizations directly or through subsidiaries and affiliates has successfully implemented other revitalization activities;

(G) an appropriate distribution of eligible organizations among regions of the United States; and

(H) other criteria determined to be appropriate by the Secretary and consistent with the purposes of this section.

(5) PROGRAM ASSISTANCE.—The Secretary shall—

(A) carry out, in accordance with this section, a program to improve access to capital and demonstrate the feasibility of facilitating the revitalization of targeted geographic areas by providing assistance to eligible organizations;

(B) accept applications from eligible organizations; and

(C) select eligible organizations to receive assistance pursuant to this section.

(6) ACTIVITIES REQUIRED.—All eligible organizations receiving assistance pursuant to this section are required to engage in activities that provide access to capital for initiatives which benefit residents and businesses in targeted geographic areas.

(7) CAPITAL ASSISTANCE.—

(A) IN GENERAL.—

(i) IN GENERAL.—The Secretary shall make grants and loans to eligible organizations.

(ii) LOANS.—Assistance provided to a depository institution holding company that is an eligible organization as defined in paragraph (3)(D)(i)(I) shall be in the form of a loan to be repaid to the Secretary. The terms and conditions of each loan shall be determined by the Secretary based on the ability of such entity to repay, except that interest shall accrue at the current Treasury rate for obligations of comparable maturity.

(iii) GRANTS OR LOANS.—Assistance provided to an eligible organization that is a nonprofit organization, as defined in paragraph (3)(D)(i)(II), may be in the form of a grant or a loan. If an eligible organization that is a nonprofit organization uses assistance that it received under this section to provide assistance to a for-profit entity, the assistance provided by the nonprofit organization must be in the form of a loan with interest to be repaid to the nonprofit organization and the nonprofit organization must use the proceeds of the loan for activities consistent with this section.

(B) ELIGIBLE ACTIVITIES.—Capital assistance may only be used to support the following activities that facilitate revitalization of targeted geographic areas or that provide economic opportunities for low-income persons—

(i) increasing the capital available for the purpose of making loans;

(ii) providing funds for equity investments in projects;

(iii) providing a portion of loan loss reserves of regulated financial institutions; and

(iv) providing credit enhancement.

(C) CAPITAL REQUIREMENTS.—Any investment derived from assistance provided by the Secretary and made by an eligible organization to a regulated financial institution shall not be included as an asset in calculating compliance with applicable capital standards. Such standards shall be satisfied from sources other than assistance provided under this section.

(D) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $25,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994 to be used to provide capital assistance to eligible organizations. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(8) DEVELOPMENT SERVICES AND TECHNICAL ASSISTANCE GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) provide grants or loans to eligible organizations for the provision of development services that support and contribute to the success of the mission of such organizations; and

(ii) provide, or contract to provide, technical assistance to eligible organizations to assist in establishing program activities that are consistent with the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph, $15,000,000 for fiscal year 1993 and $15,600,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(9) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible organizations and their staffs in developing the capacity to carry out the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $2,000,000 for fiscal year 1993 and $2,100,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(10) REPORTS.—The Secretary shall determine the appropriate reporting requirements with which eligible organizations receiving assistance under this section must comply.

(11) ADVISORY BOARD.—

(A) IN GENERAL.—In establishing requirements to carry out the provisions of this section, and in considering applications under this section, the Secretary shall consult with an advisory board comprised of the following members:

(i) the Administrator of the Small Business Administration;

(ii) two representatives from among the Federal financial supervisory agencies who possess expertise in matters related to extending credit to persons in low-income communities;

(iii) two representatives of organizations that possess expertise in development of low-income housing;

(iv) two representatives of organizations that possess expertise in economic development;

(v) two representatives of organizations that possess expertise in small business development;

(vi) two representatives from organizations that possess expertise in the needs of low-income communities; and

(vii) two representatives from community investment corporations receiving assistance under this section.

(B) CHAIRPERSON.—The Board shall elect from among its members a chairperson who shall serve for a term of 2 years.

(C) TERMS.—The members shall serve for terms of 3 years which shall expire on a staggered basis.

(D) REIMBURSEMENT.—The members shall serve without additional compensation but shall be reimbursed for travel, per diem, and other necessary expenses incurred in the performance of their duties as members of the advisory board, in accordance with sections 5702 and 5703 of title 5, United States Code.

(E) DESIGNATED REPRESENTATIVES.—A member who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving in the same agency or organization as the absent member.

(F) QUORUM.—The presence of a majority of members, or their representatives, shall constitute a quorum.

(12) EVALUATION AND REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an annual report containing a summary of the activities carried out under this section during the fiscal year and any preliminary findings or conclusions drawn from the demonstration program.

(13) NO BENEFIT RULE.—To the extent that assistance is provided to an eligible organization that is a depository institution holding company, the Secretary shall ensure, to the extent practicable, that such assistance does not inure to the benefit of directors, officers, employees and stockholders.

(14) REGULATIONS.—(A) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(B) The appropriate Federal financial supervisory agency, by regulation or order—

(i) may restrict any regulated financial institution's receipt of an extension of credit from, or investment by, an eligible organization;

(ii) may restrict the making, by a regulated financial institution or holding company, of an extension of credit to, or investment in, an eligible organization; and

(iii) shall prohibit any transaction that poses an undue risk to the affected deposit insurance fund.

(C) To the extent practicable, the Secretary and the Federal financial supervisory agencies shall coordinate the development of regulations and other program guidelines.

(15) SAFETY AND SOUNDNESS OF INSURED DEPOSITORIES.—Nothing in this section shall limit the applicability of other law relating to the safe and sound operation and management of a regulated financial institution (or a holding company) affiliated with an eligible organization or receiving assistance provided under this section.

(16) EFFECTIVE DATE.—This section shall become effective 6 months from the date of enactment of this Act.

SEC. 854. EMERGENCY ASSISTANCE FOR LOS ANGELES.

(a) IN GENERAL.—Of the funds made available under 107(b) of the Housing and Community Development Act of 1974 for purposes of this section, $3,000,000 shall be made available to each of the following:

(1) A nonprofit community-based public benefit corporation which was created in response to the civil disturbances of April 29, 1992, through May 6, 1992, in Los Angeles, California, with the support of the Speaker of the California State Assembly and community elected officials representing the affected areas.

(2) A nonprofit public benefit corporation established by the Mayor of Los Angeles and the Governor of California.

(b) USE OF FUNDS.—Such funds shall be used to carry out a community revitalization strategy in areas for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for the purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) STRATEGY.—Such strategy shall—

(1) include efforts to create jobs in distressed neighborhoods, spur community-based economic development, improve housing accessibility and affordability, and address other community development needs; and

(2) be developed in consultation with low-income residents and community leaders in the distressed areas.

(d) ELIGIBLE ACTIVITIES.—Funds made available under this subsection may be used for eligible activities pursuant to section 105 of the Housing and Community Development Act of 1974 or to provide seed capital to nonprofit community development corporations to carry out the strategy developed in subsection (c)(2).

(e) MATCH REQUIRED.—Funds provided under this section shall be matched with private or public non-Federal funds in an amount not less than 50 percent of the funds provided under this section.

TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS

Subtitle A—Miscellaneous

<< 12 USCA § 1701z–1 >>

SEC. 901. HUD RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1) is amended by striking the second sentence and all that follows and inserting the following new sentence: "There is authorized to be appropriated to carry out this title $35,000,000 for fiscal year 1993 and $36,470,000 for fiscal year 1994.".

SEC. 902. ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SPECIAL ASSISTANT FOR INDIAN AND ALASKA NATIVE PROGRAMS.—

<< 42 USCA § 3533 >>

(1) RESPONSIBILITIES.—Section 4(e)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) in the first sentence, by striking "responsible" and all that follows through "development" and inserting "located in the Office of the Assistant Secretary for Public and Indian Housing"; and

(C) by adding at the end the following new subparagraphs:

"(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

"(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

"(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

"(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

"(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

"(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

"(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.".

<< 42 USCA § 3533 NOTE >>

(2) TRANSFER OF FUNCTIONS.—Not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

(3) STAFF.—Not later than the expiration of the 1–year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

<< 42 USCA § 3535 >>

(b) AVOIDANCE OF FORECLOSURE ON MORTGAGES HELD BY SECRETARY.—Section 7(i) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)) is amended—

(1) in paragraph (5), by inserting before the semicolon the following: "; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary"; and

(2) in paragraph (6), by inserting before the period the following: ", including any provisions relating to the authority or requirements under paragraph (5)".

(c) PROGRAM MONITORING AND EVALUATION.—The first sentence of section 7(r)(6) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)(6)) is amended to read as follows: "There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994.".

SEC. 903. PARTICIPANT'S CONSENT TO RELEASE OF INFORMATION.

<< 42 USCA § 3544 >>

(a) IN GENERAL.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended by adding at the end the following new subsection:

"(e) CONDITIONS OF RELEASE OF INFORMATION BY THIRD PARTIES.—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

"(1) the request for consent is made, and the information secured is maintained, in accordance with this section, section 552a of title 5, United States Code; and

"(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.".

<< 42 USCA § 3544 NOTE >>

(b) FORMS.—

(1) NEW FORM.—Not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall develop a release form that meets the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by this section. In developing the form, the Secretary shall consult with interested parties, which shall include not less than 2 representatives of public housing agencies, 1 representative of a national tenant organization, 1 representative of a State tenant organization, and 1 representative of a legal group representing tenants.

(2) EFFECT OF OLD FORM.—During the period beginning upon the date of the enactment of this Act and ending upon implementation of the use of the form developed under paragraph (1), the benefits provided to an applicant or participant under

any program of the Department of Housing and Urban Development, or eligibility for such benefits, may not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party (including Form HUD–9886), if the applicant or participant otherwise discloses all financial information relating to the application or recertification.

SEC. 904. NATIONAL INSTITUTE OF BUILDING SCIENCES.

<< 12 USCA § 1701j–2 >>

(a) TECHNICAL CORRECTION TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—Section 809 of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j–2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the material inserted by the amendment made by section 952(b)(2) of the Cranston–Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4418).

<< 12 USCA § 1748h–1 >>

(b) TECHNICAL CORRECTION TO NATIONAL HOUSING ACT.—Section 809 of the National Housing Act is amended by striking subsection (h) (as added by section 952(b) of the Cranston–Gonzalez National Affordable Housing Act).

SEC. 905. FAIR HOUSING INITIATIVES PROGRAM.

<< 42 USCA § 3616a NOTE >>

(a) FINDINGS.—The Congress finds that—

(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988, to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act to provide increased information on the mortgage lending patterns of financial institutions;

(4) in the Americans with Disabilities Act of 1990, the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African–American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987;

(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.

<< 42 USCA § 3616 NOTE >>

<< 42 USCA § 3616a >>

(b) IN GENERAL.—Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended —

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by inserting after subsection (a) the following new subsections:

"(b) PRIVATE ENFORCEMENT INITIATIVES.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

"(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

"(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

"(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

"(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968;

"(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

"(E) provide funds for the costs and expenses of litigation, including expert witness fees.

"(c) FUNDING OF FAIR HOUSING ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968, as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

"(2) CAPACITY ENHANCEMENT.—The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

"(d) EDUCATION AND OUTREACH.—

"(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

"(A) public service announcements, both audio and video;

"(B) television, radio and print advertisements;

"(C) posters; and

"(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination

of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

"(2) REGIONAL AND LOCAL PROGRAMS.—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

"(3) COMMUNITY–BASED PROGRAMS.—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.";

(3) in subsection (g), as redesignated by paragraph (1) by striking all in the first sentence after "section," and inserting the following: "$21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—

"(1) not less than $3,820,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

"(2) not less than $2,230,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

"(3) not less than $2,010,000 for fiscal year 1993 and $4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

"(4) not less than $2,540,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3).."; and

(4) by striking subsection (h), as redesignated by paragraph (1), and inserting the following:

"(h) QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.—(1) The term 'qualified fair housing enforcement organization' means any organization that—

"(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

"(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

"(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

"(2) The term 'fair housing enforcement organization' means any organization that—

"(A) meets the requirements specified in paragraph (1)(A);

"(B) is currently engaged in the activities specified in paragraph (1)(B);

"(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

"(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

"(i) PROHIBITION ON USE OF FUNDS.—None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

"(j) REPORTING REQUIREMENTS.—Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

"(1) a description of the progress made in accomplishing the objectives of this section;

"(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

"(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

"(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

"(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.".

SEC. 906. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 943(f) of the Cranston–Gonzalez National Affordable Housing Act is amended to read as follows:

"(f) AUTHORIZATION.—Of the amount appropriated pursuant to section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1), there shall be set aside to carry out this section $1,000,000 for fiscal year 1993. Any amounts provided pursuant to this section shall remain available until expended.".

(b) FUNCTIONS OF THE COMMISSION.—Section 943(d)(1) of the Cranston–Gonzalez National Affordable Housing Act is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) by adding after subparagraph (G) the following new subparagraphs:

"(H) evaluate the extent to which manufacturers in compliance with Federal standards do and should comply with State implied or expressed warranty requirements;

"(I) examine the feasibility of expanding and establishing standards governing manufactured home sales including transportation and on-site set up; and"; and

(3) by redesignating subparagraph (H) as subparagraph (J).

(c) EXTENSION OF TERMINATION DATE.—Section 943(g) of the Cranston–Gonzalez National Affordable Housing Act is amended by striking "upon the expiration of the 9 months following the appointment of all the members under subsection (c)" and inserting "on October 1, 1993".

(d) STAFF.—Section 943(e) of the Cranston–Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 44134) is amended by adding at the end the following new paragraph:

"(7) STAFF.—

"(A) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which may not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(B) PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(C) LIMITATION.—This paragraph shall be effective only to the extent amounts are made available in appropriation Acts.".

<< 42 USCA § 5403 >>

SEC. 907. MANUFACTURED HOUSING.

Section 604 of the Housing and Community Development Act of 1974 (42 U.S.C. 5403) is amended by adding at the end the following new subsection:

"(j) The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (f). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from the date of enactment of this subsection, the Secretary shall update the standards for hardboard siding.".

SEC. 908. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.

<< 12 USCA § 2602 >>

(a) APPLICABILITY TO MORTGAGE ORIGINATION.—Section 3(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(3)) is amended by inserting after "broker," the following: "the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),".

(b) APPLICABILITY TO SECOND MORTGAGES AND REFINANCINGS.—Section 3(1)(A) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(1)(A)) is amended—

(1) by inserting "or subordinate" after "first"; and

(2) by inserting before the semicolon the following: ", including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property".

<< 12 USCA § 2602 NOTE >>

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section not later than the expiration of the 180–day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and shall not apply retroactively.

SEC. 909. COMMUNITY REINVESTMENT ACT OF 1977.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended—

<< 12 USCA § 2903 >>

(1) in section 804—

(A) by inserting before the first sentence the following:

"(a) IN GENERAL.—"; and

(B) by adding at the end the following new subsection:

"(b) MAJORITY–OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered."; and

<< 12 USCA § 2907 >>

(2) in section 808(a), by striking "shall be treated as" and inserting "may be a factor in determining whether the depository institution is".

<< 12 USCA § 2901 NOTE >>

SEC. 910. REPORT ON COMMUNITY DEVELOPMENT LENDING.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the Chairman of the National Credit Union Administration, shall submit a report to the Congress comparing residential, small business, and commercial lending by insured depository institutions in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) compare the risks and returns of lending in low-income, minority, and distressed neighborhoods with the risks and returns of lending in other neighborhoods;

(2) analyze the reasons for any differences in risk and return between low-income, minority, and distressed neighborhoods and other neighborhoods; and

(3) if the risks of lending in low-income, minority, and distressed neighborhoods exceed the risks of lending in other neighborhoods, recommend ways of mitigating those risks.

<< 42 USCA § 3545 NOTE >>

SEC. 911. SUBSIDY LAYERING REVIEW.

(a) IN GENERAL.—The Secretary shall establish guidelines for housing credit agencies, as defined under section 42 of the Internal Revenue Code of 1986, to implement the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) for projects receiving assistance within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986.

(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

(c) EFFECTIVE DATE.—As of January 1, 1993, a housing credit agency shall carry out the responsibilities of section 102(d) of the Housing and Urban Development Reform Act for projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 if such agency certifies to the Secretary that it is properly implementing the guidelines established under subsection (a). The Secretary may revoke the responsibility delegated in the preceding sentence if the Secretary determines that a housing credit agency has failed to properly implement such guidelines.

(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act.

SEC. 912. SOLAR ASSISTANCE FINANCING ENTITY.

<< 42 USCA § 5511a >>

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish within the Department of Housing and Urban Development the Solar Assistance Financing Entity (in this section referred to as the "Entity").

(b) PURPOSE.—The purpose of the Entity shall be to assist in financing solar and renewable energy capital investments and projects for eligible buildings under subsection (c).

(c) ELIGIBLE BUILDINGS.—The Entity may provide assistance under this section only for the following buildings:

(1) SINGLE FAMILY HOUSING.—Any building consisting of 1 to 4 dwelling units that has a system for heating or cooling, or both.

(2) MULTIFAMILY HOUSING.—Any building consisting of more than 4 dwelling units that has a system for heating or cooling, or both.

(3) COMMERCIAL BUILDINGS.—Any building used primarily to carry on a business (including any nonprofit business) that is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities.

(4) SCHOOLS, HOSPITALS, AND AGRICULTURAL BUILDINGS.—Any school, any hospital, and any building used exclusively in connection with the harvesting, storage, or drying of agricultural commodities.

(5) OTHER BUILDINGS.—Any other building of a type that the Entity considers appropriate.

(d) FINANCING OPTIONS.—Assistance provided under this section by the Entity may be provided only for programs for financing solar and renewable energy capital investments and projects, which may include programs for making loans, making grants, reducing the principal obligations of loans, prepayment of interest on loans, purchase and sale of loans and advances of

credit, providing loan guarantees, providing loan downpayment assistance, and providing rebates and other incentives for the purchase and installation of solar and renewable energy measures.

(e) AUTHORITY TO LEVERAGE OTHER FUNDS.—The Entity may encourage or require programs receiving assistance under this section to supplement the assistance received under this section with amounts from other public and private sources, and, in making assistance under this section available, may give preference to programs that leverage amounts from such other sources.

(f) PROVISION OF ASSISTANCE.—The Entity shall provide assistance under this section through State agencies responsible for developing State energy conservation plans pursuant to section 362 of the Energy Policy and Conservation Act, or any other entity or agency authorized to specifically carry out the purposes of this section.

(g) REGULATIONS.—Not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue any regulations necessary to carry out this section, which shall ensure maximum flexibility in utilizing amounts made available under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994. Such sums are to be available until expended.

(i) REPEALS.—

<< 12 USCA §§ 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3616, 3617, 3618, 3619, 3620 >>

<< 12 USCA § 3601 nt >>

(1) SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT.—Subtitle A of title V of the Energy Security Act (12 U.S.C. 3601 et seq.) is repealed.

<< 12 USCA §§ 1723g, 1723h >>

(2) FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—Sections 315 and 316 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723g, 1723h) are repealed.

SEC. 913. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO LABOR WAGE RATES UNDER HOUSING PROGRAMS.

<< 12 USCA § 1701q >>

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(j)(5) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(5)), as amended by section 801 of the Cranston–Gonzalez National Affordable Housing Act, is amended to read as follows:

"(5) LABOR.—

"(A) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis–Bacon Act).

"(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

<< 42 USCA § 8013 >>

(b) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(j)(6) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 8013(j)(6)) is amended—

(1) by striking "(6) LABOR STANDARDS.—The Secretary" and inserting the following:

"(6) LABOR STANDARDS.—

"(A) IN GENERAL.—The Secretary";

(2) by striking "assisted under this section and designed for dwelling use by 12 or more persons with disabilities" and inserting "with 12 or more units assisted under this section";

(3) by inserting "commonly known as" before "the Davis–Bacon Act";

(4) by striking "; but the Secretary" and all that follows through "undertaking the construction"; and

(5) by adding at the end the following new subparagraph:

"(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

SEC. 914. ENERGY EFFICIENT MORTGAGES.

<< 42 USCA § 12704 >>

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12704), as amended by section 210(a)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(25) The term 'energy efficient mortgage' means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

<< 42 USCA § 12712 NOTE >>

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

<< 12 USCA § 1701u >>

SEC. 915. ECONOMIC OPPORTUNITIES FOR LOW– AND VERY LOW–INCOME PERSONS.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended to read as follows:

"SEC. 3. ECONOMIC OPPORTUNITIES FOR LOW– AND VERY LOW–INCOME PERSONS.

"(a) FINDINGS.—The Congress finds that—

"(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

"(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

"(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

"(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

"(b) POLICY.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

"(c) EMPLOYMENT.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To residents of the housing developments for which the assistance is expended.

"(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

"(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act.

"(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

"(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act.

"(d) CONTRACTING.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

"(ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public and Indian housing agency that is providing the assistance.

"(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act.

"(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act.

"(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

"(1) LOW– AND VERY LOW–INCOME PERSONS.—The terms 'low-income persons' and 'very low-income persons' have the same meanings given the terms 'low-income families' and 'very low-income families', respectively, in section 3(b)(2) of the United States Housing Act of 1937.

"(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term 'a business concern that provides economic opportunities' means a business concern that—

"(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

"(B) employs a substantial number of such persons; or

"(C) meets such other criteria as the Secretary may establish.

"(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

"(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992, the Secretary shall promulgate regulations to implement this section.".

<< 12 USCA § 1701u NOTE >>

SEC. 916. STUDY OF THE EFFECTIVENESS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, a report describing—

(1) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968;

(2) the barriers to full implementation of section 3 of the Housing and Urban Development Act of 1968;

(3) the anticipated costs and benefits of full implementation of section 3 of the Housing and Urban Development Act of 1968; and

(4) recommendations for legislative changes to enhance the effectiveness of section 3 of the Housing and Urban Development Act of 1968.

(b) CONTENTS.—

(1) ENFORCEMENT.—The description under subsection (a)(1) of the Secretary's enforcement efforts shall include, at a minimum—

(A) a discussion of how responsibility for implementing section 3 of the Housing and Urban Development Act of 1968 is allocated within the Department of Housing and Urban Development;

(B) a discussion of the status of existing regulations implementing such section 3;

(C) a discussion of ongoing efforts to enforce current regulations;

(D) a list of the programs under the responsibility of the Secretary with respect to which the Secretary is enforcing section 3; and

(E) a separate description of the activities carried out under section 3 with respect to each of these programs.

(2) IMPEDIMENTS.—The discussion under subsection (a)(2) of the external impediments to effective enforcement of section 3 of the Housing and Urban Development Act of 1968 shall include, at a minimum, a discussion of—

(A) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

(B) any barriers created by Federal, State, or local procurement regulations or other laws;

(C) any difficulties in coordination with labor unions;

(D) any difficulties in coordination with other implicated Federal agencies; and

(E) any lack of resources on the part of recipients of assistance who are responsible for carrying out section 3 of the Housing and Urban Development Act of 1968.

(c) CONSULTATION.—In preparing the report under this subsection, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are responsible for executing section 3 of the Housing and Urban Development Act of 1968.

SEC. 917. INDIAN HOUSING AUTHORITIES.

There is authorized to be appropriated $500,000 for fiscal year 1993 and $521,000 for fiscal year 1994 to a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 that has been in existence since 1975 and that provides training, technical assistance, and information to Indian housing authorities, Indian tribal governments, and other groups. These sums shall be used by such nonprofit organization to—

(1) provide technical assistance and training to Indian housing authorities;

(2) improve the administrative capacities of Indian housing authorities; and

(3) provide for other activities designed to improve Indian housing conditions.

SEC. 918. STUDY REGARDING FORECLOSURE ALTERNATIVES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study to review and analyze alternatives to foreclosure for homeowners whose principal residences are subject to federally-related mortgages (in connection with federally related mortgage loans, as such term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974) under which the homeowner is in default. In conducting the study, the Secretary—

(1) may consult with any appropriate Federal agencies that make, insure, or guarantee mortgage loans relating to 1– to 4–family dwellings and with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, and the Federal Agricultural Mortgage Corporation; and

(2) shall review and assess the adequacy, with respect to providing alternatives to foreclosure, of—

(A) the temporary mortgage assistance payments program authorized under section 230 of the National Housing Act;

(B) the authority of the Secretary to modify interest rates and other terms of mortgages transferred to the Secretary under section 7(i) of the Department of Housing and Urban Development Act; and

(C) any authority pursuant to Debt Collection Act of 1982 to reduce interest rates on outstanding debt to the borrowing rate for the Treasury of the United States.

The Secretary shall evaluate alternatives to foreclosure based on fairness of the procedures to the homeowner and reducing adverse effects on the mortgage lending system.

(b) REPORT.—Not later than March 1, 1993, the Secretary shall submit a report to the Congress regarding the results of the study conducted under subsection (a). The report shall contain a detailed description and assessment of each alternative to foreclosure analyzed under the study and a statement by the Secretary regarding the intent of the Secretary to use any authority available under the provisions referred to in subsection (a)(2) to avoid foreclosure under mortgages (and any reasons for not using such authority). The report may also contain any recommendations of the Secretary for administrative or legislative action to assist homeowners to avoid foreclosure and any loss of equity in their mortgaged homes that may result from foreclosure.

<< 42 USCA § 3607 NOTE >>

SEC. 919. REGULATIONS CLARIFYING THE TERM "HOUSING FOR OLDER PERSONS".

The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act, make rules defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons" in such section.

<< 42 USCA § 3546 >>

SEC. 920. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) REPORT.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 921. IMPROVED COORDINATION OF URBAN POLICY.

Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501 et seq.) is amended—

<< 42 USCA § 4502 >>

(1) in section 702(d), by striking paragraph (8) and inserting the following:

"(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.";

<< 42 USCA § 4503 >>

(2) in section 703(a)—

(A) by striking "during February 1978, and during February of every even-numbered year thereafter," and inserting ", not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter,"; and

(B) in paragraph (8), by striking "such" and all that follows through the end of the sentence and inserting "legislative or administrative proposals—

"(A) to promote coordination among Federal programs to assist urban areas;

"(B) to enhance the fiscal capacity of fiscally distressed urban areas;

"(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

"(D) to generate decent and affordable housing;

"(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

"(F) to combat urban drug abuse and drug-related crime and violence;

"(G) to promote the delivery of health care to low-income communities in urban areas;

"(H) to expand educational opportunities in urban areas; and

"(I) to achieve the goals of the national urban policy."; and

(3) by adding at the end of section 703 the following new subsection:

"(d) REFERRAL.—The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.".

<< 42 USCA § 3537c >>

SEC. 922. PROHIBITION OF LUMP–SUM PAYMENTS.

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF LUMP–SUM PAYMENTS

"SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2).".

<< 42 USCA § 12714 NOTE >>

SEC. 923. ECONOMIC INDEPENDENCE.

The Secretary of Housing and Urban Development should immediately implement section 957 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12714). Other Federal agencies authorized to assist low-income families should take similar steps to encourage economic independence and the accumulation of assets.

SEC. 924. ADMINISTRATIVE PROVISION.

Subject to the availability of appropriations for this purpose, the Secretary of Housing and Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MS 94–PFL39456). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

SEC. 925. PERFORMANCE GOALS.

<< 42 USCA § 3536 NOTE >>

(a) PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") may establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

<< 42 USCA § 1471 NOTE >>

(b) PERFORMANCE GOALS FOR THE FARMERS HOME ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture may establish performance goals for the major housing programs of the Farmers Home Administration in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary of Agriculture shall prepare a report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the report under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

<< 42 USCA § 3537b >>

SEC. 926. REGULATION OF CONSULTANTS.

Section 13(f)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3537b(f)(1)) is amended by striking "authority", "State", and "local government", and by adding immediately before the period at the end the following: ", but does not include a State or local government, or the officer or employee of a State or local government or housing finance agency thereof who is engaged in the official business of the State or local government".

<< 42 USCA § 8624 NOTE >>

SEC. 927. CLARIFICATION ON UTILITY ALLOWANCES.

(a) ELIGIBILITY.—Tenants who—

(1) are responsible for making out-of-pocket payments for utility bills; and

(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (c);

shall not have their eligibility or benefits under other programs designed to assist low-income people with increases in energy costs since 1978 (including but not limited to the Low–Income Home Energy Assistance Program) reduced or eliminated.

(b) EQUAL TREATMENT IN BENEFIT PROGRAMS.—Tenants described in subsection (a) shall be treated identically with other households eligible for such assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes.

(c) APPLICABILITY.—This section applies to programs under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, and title V of the Housing Act of 1949.

<< 42 USCA § 4014 >>

SEC. 928. FLOOD CONTROL RESTORATION ZONE.

Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Director of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100–year frequency flood protection but no longer does so. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Director for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

"(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;
"(2) a minimum level of flood protection is still provided to the community by the disaccredited system; and
"(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Director of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the disaccredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Director of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection.".

<< 42 USCA § 3535 >>

SEC. 929. SALARIES AND EXPENSES.

Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by inserting at the end the following new subsection:
"(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $988,000,000 for fiscal year 1993 and $1,029,496,000 for fiscal year 1994.
"(2) Of the amounts authorized to be appropriated by this section, $96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.
"(3) Of the amounts authorized to be appropriated to carry out this section, not less than $5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.".

SEC. 930. THE NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.

(a) PURPOSE.—The purposes of this section are—
(1) to empower the local community by investing in its human capital through a private-public partnership to rebuild urban and rural communities through schools and other community organizations, including public housing communities; and
(2) to ensure that by December 1997, the Cities in Schools Program, through the National Center for Partnership Development, will have developed the capacity to reach 500,000 at-risk youth and their families through community-wide programs that channel existing community resources to provide personal, coordinated and accountable support.
(b) GRANTS TO STRENGTHEN THE NATIONAL CITIES IN SCHOOLS PROGRAM.—The Secretary of Housing and Urban Development shall make grants to expand the National Cities in Schools Program and operations of the National Center for Partnership Development to—
(1) develop, establish, and support projects to strengthen local community dropout prevention programs in elementary and secondary schools;
(2) train community leaders responsible for the implementation of local community Cities in Schools dropout prevention programs; and
(3) disseminate to, and support replication by, States and communities of effective dropout prevention strategies.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994.

SEC. 931. BANK ENTERPRISE ACT OF 1991 AND RELATED PROVISIONS.

<< 12 USCA § 1817 >>

(a) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Section 7(b)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(10)) (as added by section 232(b)(2) of the Bank Enterprise Act of 1991) is amended by striking "at the assessment rate of ½ the maximum rate." and inserting "at an assessment rate to be determined by the Corporation by regulation. Such assessment rate may not be less than ½ the maximum assessment rate.".

(b) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1917(b)(2)(A)(iii)(I)) (as added by section 232(b)(3)(C) of the Bank Enterprise Act of 1991) is amended to read as follows:

"(I) the assessment rate determined by the Corporation pursuant to paragraph (10) with respect to such semiannual period; and".

<< 12 USCA § 1834a >>

(c) QUALIFYING ACTIVITIES FOR ASSESSMENT CREDITS.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(2)) is amended to read as follows:

"(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

"(A) the amount, during such period, of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

"(B) the amount, during such period, of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and new originations of any loans and other financial assistance made within that community, except that in no case shall the credit for deposits at any institution or branch exceed the credit for loans and other financial assistance by the bank or branch in the distressed community.".

(d) AMOUNT OF ASSESSMENT CREDIT.—Section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(3)) is amended to read as follows:

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) of the Federal Deposit Insurance Act for any insured depository institution, or a qualified portion thereof, shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 234, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of—

"(A) for the first full semiannual period in which community enterprise assessment credits are available, the sum of—

"(i) the amounts of assets described in paragraph (2)(A); and

"(ii) the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B); and

"(B) for any subsequent semiannual period, the sum of—

"(i) any increase during such period in the amount of assets described in paragraph (2)(A) that has been deemed eligible for credit by the Board; and

"(ii) any increase during such period in the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B) that has been deemed eligible for credit by the Board.".

(e) ELIGIBILITY REQUIREMENTS FOR QUALIFIED DISTRESSED COMMUNITIES.—Section 233(b)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(b)(4)) is amended to read as follows:

"(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if the following criteria are met:

"(A) At least 30 percent of the residents residing in the area have incomes which are less than the national poverty level.

"(B) The unemployment rate for the area is 1½ times greater than the national average (as determined by the Bureau of Labor Statistics' most recent figures).

"(C) Such additional eligibility requirements as the Board may, in its discretion, deem necessary to carry out the provisions of this subtitle.".

SEC. 932. DISCLOSURES UNDER THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

<< 12 USCA § 2803 >>

(a) IN GENERAL.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsections:

"(j) LOAN APPLICATION REGISTER INFORMATION.—

"(1) IN GENERAL.—In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Board by regulation) in the form required under regulations prescribed by the Board.

"(2) FORMAT OF DISCLOSURE.—

"(A) UNEDITED FORMAT.—Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.

"(B) PROTECTION OF APPLICANT'S PRIVACY INTEREST.—The Board shall require, by regulation, such deletions as the Board may determine to be appropriate to protect—

"(i) any privacy interest of any applicant, including the deletion of the applicant's name and identification number, the date of the application, and the date of any determination by the institution with respect to such application; and

"(ii) a depository institution from liability under any Federal or State privacy law.

"(C) CENSUS TRACT FORMAT ENCOURAGED.—It is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.

"(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in the form in which the institution maintains such information.

"(4) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

"(5) TIME OF DISCLOSURE.—The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

"(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

"(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30–day period beginning on the date the request is made.

"(6) RETENTION OF INFORMATION.—Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

"(7) MINIMIZING COMPLIANCE COSTS.—In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

"(k) DISCLOSURE OF STATEMENTS BY DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In accordance with procedures established by the Board pursuant to this section, any depository institution required to make disclosures under this section—

"(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

"(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

"(2) NOTICE THAT DATA IS SUBJECT TO CORRECTION AFTER FINAL REVIEW.—Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the statement is subject to final review and revision, if necessary.

"(3) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

"(l) PROMPT DISCLOSURES.—

"(1) IN GENERAL.—Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

"(2) MAXIMUM DISCLOSURE PERIOD.—

"(A) 6– AND 9–MONTH MAXIMUM PERIODS.—Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Board and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

"(i) this section shall be made available to the public before September 1 of the succeeding year; and

"(ii) section 310 shall be made available to the public before December 1 of the succeeding year.

"(B) SHORTER PERIODS ENCOURAGED AFTER 1994.—With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

"(i) to make information disclosed under this section available to the public before July 1 of the succeeding year; and

"(ii) to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

"(3) IMPROVED PROCEDURE.—The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 304(c) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(c)) is amended by inserting ", other than loan application register information under subsection (j)," after "under this section".

<< 12 USCA § 2803 NOTE >>

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to information disclosed under section 304 of the Home Mortgage Disclosure Act of 1975 for any year which ends after the date of the enactment of this Act.

<< 15 USCA § 1615 >>

SEC. 933. PROHIBITION ON USE OF "RULE OF 78's" IN CONNECTION WITH MORTGAGE REFINANCINGS AND OTHER CONSUMER LOANS.

(a) PROMPT REFUND OF UNEARNED INTEREST REQUIRED.—

(1) IN GENERAL.—If a consumer prepays in full the financed amount under any consumer credit transaction, the creditor shall promptly refund any unearned portion of the interest charge to the consumer.

(2) EXCEPTION FOR REFUND OF DE MINIMUS AMOUNT.—No refund shall be required under paragraph (1) with respect to the prepayment of any consumer credit transaction if the total amount of the refund would be less than $1.

(3) APPLICABILITY TO REFINANCED TRANSACTIONS AND ACCELERATION BY THE CREDITOR.—This subsection shall apply with respect to any prepayment of a consumer credit transaction described in paragraph (1) without regard to the manner or the reason for the prepayment, including—

(A) any prepayment made in connection with the refinancing, consolidation, or restructuring of the transaction; and

(B) any prepayment made as a result of the acceleration of the obligation to repay the amount due with respect to the transaction.

(b) USE OF "RULE OF 78'S" PROHIBITED.—For the purpose of calculating any refund of interest required under subsection (a) for any precomputed consumer credit transaction of a term exceeding 61 months which is consummated after September 30, 1993, the creditor shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method.

(c) STATEMENT OF PREPAYMENT AMOUNT.—

(1) IN GENERAL.—Before the end of the 5–day period beginning on the date an oral or written request is received by a creditor from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of—

(A) the amount necessary to prepay the account in full; and

(B) if the amount disclosed pursuant to subparagraph (A) includes an amount which is required to be refunded under this section with respect to such prepayment, the amount of such refund.

(2) WRITTEN STATEMENT REQUIRED IF REQUEST IS IN WRITING.—If the customer's request is in writing, the statement under paragraph (1) shall be in writing.

(3) 1 FREE ANNUAL STATEMENT.—A consumer shall be entitled to obtain 1 statement under paragraph (1) each year without charge.

(4) ADDITIONAL STATEMENTS SUBJECT TO REASONABLE FEES.—Any creditor may impose a reasonable fee to cover the cost of providing any statement under paragraph (1) to any consumer in addition to the 1 free annual statement required under paragraph (3) if the amount of the charge for such additional statement is disclosed to the consumer before furnishing such statement.

(d) DEFINITIONS.—For the purpose of this section—

(1) ACTUARIAL METHOD.—The term "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) CONSUMER, CREDIT.—The terms "consumer" and "creditor" have the meanings given to such terms in section 103 of the Consumer Credit Protection Act.

(3) CREDITOR.—The term "creditor"—

(A) has the meaning given to such term in section 103 of the Consumer Credit Protection Act; and

(B) includes any assignee of any creditor with respect to credit extended in connection with any consumer credit transaction and any subsequent assignee with respect to such credit.

Subtitle B—Bank Regulatory Clarification Provisions

<< 12 USCA § 2604 >>

SEC. 951. AMENDMENT RELATING TO ESTIMATES OF REAL ESTATE SETTLEMENT COSTS.

Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence and inserting "Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3–day period.".

<< 12 USCA § 3806 >>

SEC. 952. ADJUSTABLE RATE MORTGAGE CAPS.

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any consumer loan".

<< 12 USCA § 1464 >>

SEC. 953. MODIFYING SEPARATE CAPITALIZATION RULE FOR SAVINGS ASSOCIATIONS' SUBSIDIARIES ENGAGED IN ACTIVITIES NOT PERMISSIBLE FOR NATIONAL BANKS.

(a) IN GENERAL.—Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by redesignating clause (iii) as clause (ix) and by inserting after clause (ii) the following new clauses:

"(iii) AGENCY DISCRETION TO PRESCRIBE GREATER PERCENTAGE.—Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater

than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

"(I) would not constitute an unsafe or unsound practice;

"(II) would not increase the risk to the affected deposit insurance fund; and

"(III) would not be likely to result in the association's being in an unsafe or unsound condition.

"(iv) SUBSTANTIAL COMPLIANCE WITH APPROVED CAPITAL PLAN.—In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s), or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act, an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

"(v) LIMITATION ON INVESTMENTS TAKEN INTO ACCOUNT.—In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

"(I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and

"(II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

"(vi) LIMIT.—The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

"For the following period:	**The limit is:**
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
After June 30, 1996	0 percent

"(vii) CRITICALLY UNDERCAPITALIZED INSTITUTION.—In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting 'Corporation' for 'Director' each place such term appears.

"(viii) QUALIFIED SAVINGS ASSOCIATION DEFINED.—For purposes of clause (iii), the term 'qualified savings association' means an eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association's subsidiary, and—

"(I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act); or

"(II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act, and is not critically undercapitalized (as defined in such section).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Clause (ix) of section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) (as so redesignated by subsection (a) of this section) is amended by inserting "or prescribed under clause (iii)" after "clause (ii)".

<< 12 USCA § 3341 >>

SEC. 954. REAL ESTATE APPRAISAL AMENDMENT.

Section 1112 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) by striking "Each Federal financial institutions" and inserting "(a) IN GENERAL.—Each Federal financial institutions"; and

(2) by adding at the end the following new subsections:

"(b) THRESHOLD LEVEL.—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.

"(c) GAO STUDY OF APPRAISALS IN CONNECTION WITH REAL ESTATE RELATED FINANCIAL TRANSACTIONS BELOW THE THRESHOLD LEVEL.—

"(1) STUDY REQUIRED.—At the end of the 18–month period, and the end of the 36–month period, beginning on the date of the enactment of this subsection, the Comptroller General of the United States shall conduct a study on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account—

"(A) the cost to any financial institution involved in any such transaction;

"(B) the possibility of losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund;

"(C) the cost to any customer involved in any such transaction; and

"(D) the effect on low-income housing.

"(2) REPORTS TO CONGRESS AND THE APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—Upon completing each of the studies required under paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.".

<< 12 USCA § 375b >>

SEC. 955. INSIDER LENDING.

(a) AUTHORITY TO MAKE EXCEPTIONS TO DEFINITION OF EXTENSION OF CREDIT.—Section 22(h)(9)(D) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(D)) is amended—

(1) by striking "(D) EXTENSION OF CREDIT.—A member bank" and inserting the following:

"(D) EXTENSION OF CREDIT.—

"(i) IN GENERAL.—A member bank"; and

(2) by adding at the end the following new clause:

"(ii) EXCEPTIONS.—The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.".

(b) PRINCIPAL SHAREHOLDER DEFINED.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(F)) is amended—

(1) by striking "shareholder' means any person" and inserting "shareholder'—

"(i) means any person";

(2) by striking the period at the end of clause (i) (as so redesignated by paragraph (1) of this subsection) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) does not include a company of which a member bank is a subsidiary.".

<< 12 USCA § 1831s >>

SEC. 956. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (as added by section 132(a) of Federal Deposit Insurance Corporation Improvement Act of 1991) (12 U.S.C. 1831s) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—

"(1) IN GENERAL.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation. Such regulations may not prescribe standards that set a specific level or range of compensation for directors, officers, or employees of insured depository institutions.

"(2) APPLICABILITY OF OTHER LAWS.—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict the level of compensation, including golden parachute payments (as defined in section 18(k)(4)), paid to any director, officer, or employee of an insured depository institution under any other provision of law.

"(3) SENIOR EXECUTIVE OFFICERS AT UNDERCAPITALIZED INSTITUTIONS.—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict compensation paid to any senior executive officer of an undercapitalized insured depository institution pursuant to section 38.

"(4) SAFETY AND SOUNDNESS OR ENFORCEMENT ACTIONS.—Paragraph (1) shall not be construed as affecting the authority of any appropriate Federal banking agency under any provision of this Act other than this section, or under any other provision of law, to prescribe a specific level or range of compensation for any director, officer, or employee of an insured depository institution—

"(A) to preserve the safety and soundness of the institution; or

"(B) in connection with any action under section 8 or any order issued by the agency, any agreement between the agency and the institution, or any condition imposed by the agency in connection with the agency's approval of an application or other request by the institution, which is enforceable under section 8."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 957. TRUTH IN SAVINGS ACT AMENDMENTS.

<< 12 USCA § 4302 >>

(a) ON–PREMISES DISPLAYS.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) DISCLOSURE REQUIRED FOR ON–PREMISES DISPLAYS.—

"(1) IN GENERAL.—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest which is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) DEFINITION.—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.".

<< 12 USCA § 4308 >>

(b) EFFECTIVE DATE OF REGULATIONS.—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking "6 months" and inserting "9 months".

<< 42 USCA Ch. 63A >>

TITLE X—RESIDENTIAL LEAD–BASED PAINT HAZARD REDUCTION ACT OF 1992

<< 42 USCA § 4851 NOTE >>

SEC. 1001. SHORT TITLE.

This title may be cited as the "Residential Lead–Based Paint Hazard Reduction Act of 1992".

<< 42 USCA § 4851 >>

SEC. 1002. FINDINGS.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre–1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

<< 42 USCA § 4851a >>

SEC. 1003. PURPOSES.

The purposes of this Act are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

<< 42 USCA § 4851b >>

SEC. 1004. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) ABATEMENT.—The term “abatement” means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(2) ACCESSIBLE SURFACE.—The term "accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) CERTIFIED CONTRACTOR.—The term "certified contractor" means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) DETERIORATED PAINT.—The term "deteriorated paint" means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) EVALUATION.—The term "evaluation" means risk assessment, inspection, or risk assessment and inspection.

(7) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means residential dwellings receiving project-based assistance under programs including—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 1 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949.

(8) FEDERALLY OWNED HOUSING.—The term "federally owned housing" means residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term "Federal agency" includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) FEDERALLY SUPPORTED WORK.—The term "federally supported work" means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) FRICTION SURFACE.—The term "friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) IMPACT SURFACE.—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) INSPECTION.—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead–Based Paint Poisoning Prevention Act and the provision of a report explaining the results of the investigation.

(13) INTERIM CONTROLS.—The term "interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) LEAD–BASED PAINT.—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Lead–Based Paint Poisoning Prevention Act.

(15) LEAD–BASED PAINT HAZARD.—The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible

surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) LEAD–CONTAMINATED DUST.—The term "lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) LEAD–CONTAMINATED SOIL.—The term "lead-contaminated soil" means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

(18) MORTGAGE LOAN.—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) ORIGINATING MORTGAGE INSTITUTION.—The term "originating mortgage institution" means a lender that provides mortgage loans.

(20) PRIORITY HOUSING.—The term "priority housing" means target housing that qualifies as affordable housing under section 215 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12745), including housing that receives assistance under subsection (b) or (o) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) or (o)).

(21) PUBLIC HOUSING.—The term "public housing" has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(22) REDUCTION.—The term "reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) RESIDENTIAL DWELLING.—The term "residential dwelling" means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) RESIDENTIAL REAL PROPERTY.—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) RISK ASSESSMENT.—The term "risk assessment" means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) TARGET HOUSING.—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0–bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary's discretion, may designate an earlier date.

<< 42 USCA Ch. 63A >>

Subtitle A—Lead–Based Paint Hazard Reduction

<< 42 USCA § 4852 >>

SEC. 1011. GRANTS FOR LEAD–BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.

(a) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in priority housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) ELIGIBLE APPLICANTS.—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) FORM OF APPLICATIONS.—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of priority housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in priority housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) ELIGIBLE ACTIVITIES.—A grant under this section may be used to—

(1) perform risk assessments and inspections in priority housing;

(2) provide for the interim control of lead-based paint hazards in priority housing;

(3) provide for the abatement of lead-based paint hazards in priority housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate priority housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in priority housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) FORMS OF ASSISTANCE.—The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—

(1) IN GENERAL.—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston–Gonzalez National Affordable Housing Act and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to $200,000 for the purpose of establishing State training, certification or accreditation programs that meet the requirements of section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act.

(2) SET–ASIDE.—Of the total amount approved in appropriation Acts under subsection (o), there shall be set aside to carry out this subsection $3,000,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994.

(h) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) PROHIBITION OF SUBSTITUTION OF FUNDS.—Grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(j) LIMITATION ON USE.—An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) FINANCIAL RECORDS.—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) REPORT.—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) NOTICE OF FUNDING AVAILABILITY.—The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) RELATIONSHIP TO OTHER LAW.—Effective 2 years after the date of promulgation of regulations under section 402 of the Toxic Substances Control Act, no grants for lead-based paint hazard evaluation or reduction may be awarded to a State under this section unless such State has an authorized program under section 404 of the Toxic Substances Control Act.

(o) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this Act, there are authorized to be appropriated $125,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

SEC. 1012. EVALUATION AND REDUCTION OF LEAD–BASED PAINT HAZARDS IN FEDERALLY ASSISTED HOUSING.

<< 42 USCA § 4822 >>

(a) GENERAL REQUIREMENTS.—Section 302 of the Lead–Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended—

(1) by striking the title of the section and inserting:

"REQUIREMENTS FOR HOUSING RECEIVING FEDERAL ASSISTANCE";

(2) in the first sentence of subsection (a)—

(A) by striking "The Secretary" and inserting the following:

"(1) ELIMINATION OF HAZARDS.—The Secretary"; and

(B) by inserting before the period "or otherwise receives more than $5,000 in project-based assistance under a Federal housing program";

(3) by striking the second sentence of subsection (a) and inserting: "Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

"(A) the provision of lead hazard information pamphlets, developed pursuant to section 406 of the Toxic Substances Control Act, to purchasers and tenants;

"(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

"(i) not less than 25 percent shall be performed by January 1, 1998;

"(ii) not less than 50 percent shall be performed by January 1, 2000; and

"(iii) the remainder shall be performed by January 1, 2002;

"(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

"(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds;

"(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds;

"(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

"(G) such other measures as the Secretary deems appropriate."; and

(4) in the third sentence, by striking "The Secretary may" and inserting the following:

"(2) ADDITIONAL MEASURES.—The Secretary may".

(b) MEASUREMENT CRITERIA.—Section 302(b) of the Lead–Based Paint Poisoning Prevention Act (42 U.S.C. 4822(b)) is amended by striking "for the detection" and all that follows through the end of paragraph (2) and inserting "for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 1017 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

(c) INSPECTION.—Section 302(c) of the Lead–Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the second sentence, by striking "qualified" and inserting "certified"; and

(2) in the third and fourth sentences, by inserting "or 0.5 percent by weight" after "squared".

(d) PUBLIC HOUSING.—Section 302(d)(1) of the Lead–Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) in the heading, by striking "CIAP" and inserting "MODERNIZATION"; and

(2) in the fourth sentence, by striking "to eliminate the lead-based paint poisoning hazards" and inserting "of lead-based paint and lead-based paint hazards".

<< 42 USCA § 12742 >>

(e) HOME INVESTMENT PARTNERSHIPS.—Section 212(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended by adding at the end the following new paragraph:

"(5) LEAD–BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

<< 42 USCA § 5305 >>

(f) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

<< 42 USCA § 1437f >>

(g) SECTION 8 RENTAL ASSISTANCE.—Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

(h) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

<< 42 USCA § 1437aaa–1 >>

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead–Based Paint Poisoning Prevention Act;"; and

<< 42 USCA § 1437aaa–2 >>

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead–Based Paint Poisoning Prevention Act.".

(i) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—The Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

<< 42 USCA § 12872 >>

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead–Based Paint Poisoning Prevention Act;"; and

<< 42 USCA § 12873 >>

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead–Based Paint Poisoning Prevention Act.".

(j) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—The Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

<< 42 USCA § 12892 >>

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead–Based Paint Poisoning Prevention Act;"; and

<< 42 USCA § 12893 >>

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead–Based Paint Poisoning Prevention Act.".

(k) FHA INSURANCE FOR SINGLE FAMILY HOMES.—

<< 12 USCA § 1703 >>

(1) HOME IMPROVEMENT LOANS.—Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended in the fifth paragraph—

(A) by inserting after the first sentence the following: "Alterations, repairs, and improvements upon or in connection with existing structures may also include the evaluation and reduction of lead-based paint hazards."; and

(B) by adding at the end the following:

"(4) the terms 'evaluation', 'reduction', and 'lead-based paint hazard' have the same meanings given those terms in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

<< 12 USCA § 1709 >>

(2) REHABILITATION LOANS.—Section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)) is amended by adding at the end the following: "The term 'rehabilitation' may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

<< 12 USCA § 1715*l* >>

(l) FHA INSURANCE FOR MULTIFAMILY HOUSING.—Section 221(d)(4)(iv) of the National Housing Act (12 U.S.C. 1715***l***(d)(4)(iv)) is amended by inserting after "rehabilitation" the first time it appears the following: "(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992)".

<< 42 USCA § 1471 >>

(m) RURAL HOUSING.—Section 501(a) of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following:

"(5) DEFINITIONS.—For purposes of this title, the terms 'repair', 'repairs', 'rehabilitate', and 'rehabilitation' include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.".

<< 42 USCA § 4822 >>

SEC. 1013. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead–Based Paint Poisoning Prevention Act (42 U.S.C. 4822(a)) (as amended by section 1012(a)) is amended by striking the fourth sentence and adding at the end the following:

"(3) DISPOSITION OF FEDERALLY OWNED HOUSING.—

"(A) PRE–1960 TARGET HOUSING.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

"(B) TARGET HOUSING CONSTRUCTED BETWEEN 1960 AND 1978.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

"(C) BUDGET AUTHORITY.—To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifications under section 504(e) of the Federal Credit Reform Act of 1990 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

"(D) DEFINITIONS.—For the purposes of this subsection, the terms 'inspection', 'abatement', 'lead-based paint hazard', 'federally owned housing', 'target housing', 'risk assessment', and 'certified contractor' have the same meaning given such terms in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'risk assessment', 'inspection', 'interim control', 'abatement', 'reduction', and 'lead-based paint hazard' have the same meaning given such terms in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992.

<< 42 USCA § 12705 >>

SEC. 1014. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

(1) in subsection (b)(14), by striking "and" at the end;

(2) in subsection (b)(15), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (15) of subsection (b) the following new paragraph:

"(16) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs."; and

(4) in subsection (e)—

(A) by striking "When preparing" and inserting the following:

"(1) IN GENERAL.—When preparing"; and

(B) by adding at the end the following new paragraph:

"(2) LEAD–BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.".

<< 42 USCA § 4852a >>

SEC. 1015. TASK FORCE ON LEAD–BASED PAINT HAZARD REDUCTION AND FINANCING.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) MEMBERSHIP.—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Environmental Protection Agency, employee organizations in the

building and construction trades industry, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) RESPONSIBILITIES.—The task force shall make recommendations to the Secretary and the Administrator of the Environmental Protection Agency concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) COMPENSATION.—The members of the task force shall not receive Federal compensation for their participation.

<< 42 USCA § 4852b >>

SEC. 1016. NATIONAL CONSULTATION ON LEAD–BASED PAINT HAZARD REDUCTION.

In carrying out this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 1015.

<< 42 USCA § 4852c >>

SEC. 1017. GUIDELINES FOR LEAD–BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES.

Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

<< 42 USCA § 4852d >>

SEC. 1018. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) LEAD DISCLOSURE IN PURCHASE AND SALE OR LEASE OF TARGET HOUSING.—

(1) LEAD–BASED PAINT HAZARDS.—Not later than 2 years after the date of enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease. The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall—

(A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act;

(B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

(C) permit the purchaser a 10–day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents;

(B) received a lead hazard information pamphlet; and

(C) had a 10–day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(3) CONTENTS OF LEAD WARNING STATEMENT.—The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.".

(4) COMPLIANCE ASSURANCE.—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

(5) PROMULGATION.—A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic Substances Control Act to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) PENALTIES FOR VIOLATIONS.—

(1) MONETARY PENALTY.—Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(2) ACTION BY SECRETARY.—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) COSTS.—In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) PROHIBITED ACT.—It shall be a prohibited act under section 409 of the Toxic Substances Control Act for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section. For purposes of enforcing this section under the Toxic Substances Control Act, the penalty for each violation applicable under section 16 of that Act shall not be more than $10,000.

(c) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) EFFECTIVE DATE.—The regulations under this section shall take effect 3 years after the date of the enactment of this title.

Subtitle B—Lead Exposure Reduction

SEC. 1021. CONTRACTOR TRAINING AND CERTIFICATION.

(a) AMENDMENT TO THE TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding after title III the following new title:

<< 15 USCA Ch. 53 >>

"TITLE IV—LEAD EXPOSURE REDUCTION

<< 15 USCA § 2681 >>

"SEC. 401. DEFINITIONS.

"For the purposes of this title:

"(1) ABATEMENT.—The term 'abatement' means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Administrator under this title. Such term includes—

"(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

"(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

"(2) ACCESSIBLE SURFACE.—The term 'accessible surface' means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

"(3) DETERIORATED PAINT.—The term 'deteriorated paint' means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

"(4) EVALUATION.—The term 'evaluation' means risk assessment, inspection, or risk assessment and inspection.

"(5) FRICTION SURFACE.—The term 'friction surface' means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

"(6) IMPACT SURFACE.—The term 'impact surface' means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

"(7) INSPECTION.—The term 'inspection' means (A) a surface-by-surface investigation to determine the presence of lead-based paint, as provided in section 302(c) of the Lead–Based Paint Poisoning Prevention Act, and (B) the provision of a report explaining the results of the investigation.

"(8) INTERIM CONTROLS.—The term 'interim controls' means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"(9) LEAD–BASED PAINT.—The term 'lead-based paint' means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (A) in the case of paint or other surface coatings on target housing, such lower level as may be established by the Secretary of Housing and Urban Development, as defined in section 302(c) of the Lead–Based Paint Poisoning Prevention Act, or (B) in the case of any other paint or surface coatings, such other level as may be established by the Administrator.

"(10) LEAD–BASED PAINT HAZARD.—The term 'lead-based paint hazard' means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the Administrator under this title.

"(11) LEAD–CONTAMINATED DUST.—The term 'lead-contaminated dust' means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the Administrator under this title to pose a threat of adverse health effects in pregnant women or young children.

"(12) LEAD–CONTAMINATED SOIL.—The term 'lead-contaminated soil' means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the Administrator under this title.

"(13) REDUCTION.—The term 'reduction' means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

"(14) RESIDENTIAL DWELLING.—The term 'residential dwelling' means—

"(A) a single-family dwelling, including attached structures such as porches and stoops; or

"(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(15) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(16) RISK ASSESSMENT.—The term 'risk assessment' means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

"(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

"(B) visual inspection;

"(C) limited wipe sampling or other environmental sampling techniques;

"(D) other activity as may be appropriate; and

"(E) provision of a report explaining the results of the investigation.

"(17) TARGET HOUSING.—The term 'target housing' means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0–bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.

<< 15 USCA § 2682 >>

"SEC. 402. LEAD–BASED PAINT ACTIVITIES TRAINING AND CERTIFICATION.

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services (acting through the Director of the National Institute for Occupational Safety and Health), promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. Such regulations shall contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety. Such regulations shall require that all risk assessment, inspection, and abatement activities performed in target housing shall be performed by certified contractors, as such term is defined in section 1004 of the Residential Lead–Based Paint Hazard Reduction Act of 1992. The provisions of this section shall supersede the provisions set forth under the heading 'Lead Abatement Training and Certification' and under the heading 'Training Grants' in title III of the Act entitled 'An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes', Public Law 102–139, and upon the enactment of this section the provisions set forth in such public law under such headings shall cease to have any force and effect.

"(2) ACCREDITATION OF TRAINING PROGRAMS.—Final regulations promulgated under paragraph (1) shall contain specific requirements for the accreditation of lead-based paint activities training programs for workers, supervisors, inspectors and planners, and other individuals involved in lead-based paint activities, including, but not limited to, each of the following:

"(A) Minimum requirements for the accreditation of training providers.

"(B) Minimum training curriculum requirements.

"(C) Minimum training hour requirements.

"(D) Minimum hands-on training requirements.

"(E) Minimum trainee competency and proficiency requirements.

"(F) Minimum requirements for training program quality control.

"(3) ACCREDITATION AND CERTIFICATION FEES.—The Administrator (or the State in the case of an authorized State program) shall impose a fee on—

"(A) persons operating training programs accredited under this title; and

"(B) lead-based paint activities contractors certified in accordance with paragraph (1).

The fees shall be established at such level as is necessary to cover the costs of administering and enforcing the standards and regulations under this section which are applicable to such programs and contractors. The fee shall not be imposed on any State, local government, or nonprofit training program. The Administrator (or the State in the case of an authorized State program) may waive the fee for lead-based paint activities contractors under subparagraph (A) for the purpose of training their own employees.

"(b) LEAD–BASED PAINT ACTIVITIES.—For purposes of this title, the term 'lead-based paint activities' means—

"(1) in the case of target housing, risk assessment, inspection, and abatement; and

"(2) in the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure, identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

For purposes of paragraph (2), the term 'deleading' means activities conducted by a person who offers to eliminate lead-based paint or lead-based paint hazards or to plan such activities.

"(c) RENOVATION AND REMODELING.—

"(1) GUIDELINES.—In order to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing, public buildings constructed before 1978, and commercial buildings, the Administrator shall, within 18 months after the enactment of this section, promulgate guidelines for the conduct of such renovation and remodeling activities which may create a risk of exposure to dangerous levels of lead. The Administrator shall disseminate such guidelines to persons engaged in such renovation and remodeling through hardware and paint stores, employee organizations, trade groups, State and local agencies, and through other appropriate means.

"(2) STUDY OF CERTIFICATION.—The Administrator shall conduct a study of the extent to which persons engaged in various types of renovation and remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular or occasional basis. The Administrator shall complete such study and publish the results thereof within 30 months after the enactment of this section.

"(3) CERTIFICATION DETERMINATION.—Within 4 years after the enactment of this section, the Administrator shall revise the regulations under subsection (a) to apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. In determining which contractors are engaged in such activities, the Administrator shall utilize the results of the study under paragraph (2) and consult with the representatives of labor organizations, lead-based paint activities contractors, persons engaged in remodeling and renovation, experts in lead health effects, and others. If the Administrator determines that any category of contractors engaged in renovation or remodeling does not require certification, the Administrator shall publish an explanation of the basis for that determination.

<< 15 USCA § 2683 >>

"SEC. 403. IDENTIFICATION OF DANGEROUS LEVELS OF LEAD.

"Within 18 months after the enactment of this title, the Administrator shall promulgate regulations which shall identify, for purposes of this title, and the Residential Lead–Based Paint Hazard Reduction Act of 1992, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil.

<< 15 USCA § 2684 >>

"SEC. 404. AUTHORIZED STATE PROGRAMS.

"(a) APPROVAL.—Any State which seeks to administer and enforce the standards, regulations, or other requirements established under section 402 or 406, or both, may, after notice and opportunity for public hearing, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b). Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 402 or 406, or both, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

"(b) APPROVAL OR DISAPPROVAL.—Within 180 days following submission of an application under subsection (a), the Administrator shall approve or disapprove the application. The Administrator may approve the application only if, after notice and after opportunity for public hearing, the Administrator finds that—

"(1) the State program is at least as protective of human health and the environment as the Federal program under section 402 or 406, or both, as the case may be, and

"(2) such State program provides adequate enforcement.

Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

"(c) WITHDRAWAL OF AUTHORIZATION.—If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this title, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title.

"(d) MODEL STATE PROGRAM.—Within 18 months after the enactment of this title, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this title. Such model program shall, to the extent practicable, encourage States to utilize existing State and local certification and accreditation programs and procedures. Such program shall encourage reciprocity among the States with respect to the certification under section 402.

"(e) OTHER STATE REQUIREMENTS.—Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this title.

"(f) STATE AND LOCAL CERTIFICATION.—The regulations under this title shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local certification and accreditation procedures, except that a State or local government shall not require more than 1 certification under this section for any lead-based paint activities contractor to carry out lead-based paint activities in the State or political subdivision thereof.

"(g) GRANTS TO STATES.—The Administrator is authorized to make grants to States to develop and carry out authorized State programs under this section. The grants shall be subject to such terms and conditions as the Administrator may establish to further the purposes of this title.

"(h) ENFORCEMENT BY ADMINISTRATOR.—If a State does not have a State program authorized under this section and in effect by the date which is 2 years after promulgation of the regulations under section 402 or 406, the Administrator shall, by such date, establish a Federal program for section 402 or 406 (as the case may be) for such State and administer and enforce such program in such State.

<< 15 USCA § 2685 >>

"SEC. 405. LEAD ABATEMENT AND MEASUREMENT.

"(a) PROGRAM TO PROMOTE LEAD EXPOSURE ABATEMENT.—The Administrator, in cooperation with other appropriate Federal departments and agencies, shall conduct a comprehensive program to promote safe, effective, and affordable monitoring, detection, and abatement of lead-based paint and other lead exposure hazards.

"(b) STANDARDS FOR ENVIRONMENTAL SAMPLING LABORATORIES.—(1) The Administrator shall establish protocols, criteria, and minimum performance standards for laboratory analysis of lead in paint films, soil, and dust. Within 2 years after the enactment of this title, the Administrator, in consultation with the Secretary of Health and Human Services, shall establish a program to certify laboratories as qualified to test substances for lead content unless the Administrator determines, by the date specified in this paragraph, that effective voluntary accreditation programs are in place and operating on a nationwide basis at the time of such determination. To be certified under such program, a laboratory shall, at a minimum, demonstrate an ability to test substances accurately for lead content.

"(2) Not later than 24 months after the date of the enactment of this section, and annually thereafter, the Administrator shall publish and make available to the public a list of certified or accredited environmental sampling laboratories.

"(3) If the Administrator determines under paragraph (1) that effective voluntary accreditation programs are in place for environmental sampling laboratories, the Administrator shall review the performance and effectiveness of such programs within 3 years after such determination. If, upon such review, the Administrator determines that the voluntary accreditation programs are not effective in assuring the quality and consistency of laboratory analyses, the Administrator shall, not more than 12 months thereafter, establish a certification program that meets the requirements of paragraph (1).

"(c) EXPOSURE STUDIES.—(1) The Secretary of Health and Human Services (hereafter in this subsection referred to as the 'Secretary'), acting through the Director of the Centers for Disease Control, (CDC), and the Director of the National Institute of Environmental Health Sciences, shall jointly conduct a study of the sources of lead exposure in children who have elevated blood lead levels (or other indicators of elevated lead body burden), as defined by the Director of the Centers for Disease Control.

"(2) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health, shall conduct a comprehensive study of means to reduce hazardous occupational lead abatement exposures. This study shall include, at a minimum, each of the following—

"(A) Surveillance and intervention capability in the States to identify and prevent hazardous exposures to lead abatement workers.

"(B) Demonstration of lead abatement control methods and devices and work practices to identify and prevent hazardous lead exposures in the workplace.

"(C) Evaluation, in consultation with the National Institute of Environmental Health Sciences, of health effects of low and high levels of occupational lead exposures on reproductive, neurological, renal, and cardiovascular health.

"(D) Identification of high risk occupational settings to which prevention activities and resources should be targeted.

"(E) A study assessing the potential exposures and risks from lead to janitorial and custodial workers.

"(3) The studies described in paragraphs (1) and (2) shall, as appropriate, examine the relative contributions to elevated lead body burden from each of the following:

"(A) Drinking water.

"(B) Food.

"(C) Lead-based paint and dust from lead-based paint.

"(D) Exterior sources such as ambient air and lead in soil.

"(E) Occupational exposures, and other exposures that the Secretary determines to be appropriate.

"(4) Not later than 30 months after the date of the enactment of this section, the Secretary shall submit a report to the Congress concerning the studies described in paragraphs (1) and (2).

"(d) PUBLIC EDUCATION.—(1) The Administrator, in conjunction with the Secretary of Health and Human Services, acting through the Director of the Agency for Toxic Substances and Disease Registry, and in conjunction with the Secretary of Housing and Urban Development, shall sponsor public education and outreach activities to increase public awareness of—

"(A) the scope and severity of lead poisoning from household sources;

"(B) potential exposure to sources of lead in schools and childhood day care centers;

"(C) the implications of exposures for men and women, particularly those of childbearing age;

"(D) the need for careful, quality, abatement and management actions;

"(E) the need for universal screening of children;

"(F) other components of a lead poisoning prevention program;

"(G) the health consequences of lead exposure resulting from lead-based paint hazards;

"(H) risk assessment and inspection methods for lead-based paint hazards; and

"(I) measures to reduce the risk of lead exposure from lead-based paint.

"(2) The activities described in paragraph (1) shall be designed to provide educational services and information to—

"(A) health professionals;

"(B) the general public, with emphasis on parents of young children;

"(C) homeowners, landlords, and tenants;

"(D) consumers of home improvement products;

"(E) the residential real estate industry; and

"(F) the home renovation industry.

"(3) In implementing the activities described in paragraph (1), the Administrator shall assure coordination with the President's Commission on Environmental Quality's education and awareness campaign on lead poisoning.

"(4) The Administrator, in consultation with the Chairman of the Consumer Product Safety Commission, shall develop information to be distributed by retailers of home improvement products to provide consumers with practical information related to the hazards of renovation and remodeling where lead-based paint may be present.

"(e) TECHNICAL ASSISTANCE.—

"(1) CLEARINGHOUSE.—Not later than 6 months after the enactment of this subsection, the Administrator shall establish, in consultation with the Secretary of Housing and Urban Development and the Director of the Centers for Disease Control, a National Clearinghouse on Childhood Lead Poisoning (hereinafter in this section referred to as 'Clearinghouse'). The Clearinghouse shall—

"(A) collect, evaluate, and disseminate current information on the assessment and reduction of lead-based paint hazards, adverse health effects, sources of exposure, detection and risk assessment methods, environmental hazards abatement, and clean-up standards;

"(B) maintain a rapid-alert system to inform certified lead-based paint activities contractors of significant developments in research related to lead-based paint hazards; and

"(C) perform any other duty that the Administrator determines necessary to achieve the purposes of this Act.

"(2) HOTLINE.—Not later than 6 months after the enactment of this subsection, the Administrator, in cooperation with other Federal agencies and with State and local governments, shall establish a single lead-based paint hazard hotline to provide the public with answers to questions about lead poisoning prevention and referrals to the Clearinghouse for technical information.

"(f) PRODUCTS FOR LEAD–BASED PAINT ACTIVITIES.—Not later than 30 months after the date of enactment of this section, the President shall, after notice and opportunity for comment, establish by rule appropriate criteria, testing protocols, and performance characteristics as are necessary to ensure, to the greatest extent possible and consistent with the purposes and policy of this title, that lead-based paint hazard evaluation and reduction products introduced into commerce after a period specified in the rule are effective for the intended use described by the manufacturer. The rule shall identify the types or classes of products that are subject to such rule. The President, in implementation of the rule, shall, to the maximum extent possible, utilize independent testing laboratories, as appropriate, and consult with such entities and others in developing the rules. The President may delegate the authorities under this subsection to the Environmental Protection Agency or the Secretary of Commerce or such other appropriate agency.

<< 15 USCA § 2686 >>

"SEC. 406. LEAD HAZARD INFORMATION PAMPHLET.

"(a) LEAD HAZARD INFORMATION PAMPHLET.—Not later than 2 years after the enactment of this section, after notice and opportunity for comment, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development and with the Secretary of Health and Human Services, shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with this title and section 1018 of the Residential Lead–Based Paint Hazard Reduction Act of 1992. The pamphlet shall—

"(1) contain information regarding the health risks associated with exposure to lead;

"(2) provide information on the presence of lead-based paint hazards in federally assisted, federally owned, and target housing;

"(3) describe the risks of lead exposure for children under 6 years of age, pregnant women, women of childbearing age, persons involved in home renovation, and others residing in a dwelling with lead-based paint hazards;

"(4) describe the risks of renovation in a dwelling with lead-based paint hazards;

"(5) provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards;

"(6) advise persons how to obtain a list of contractors certified pursuant to this title in lead-based paint hazard evaluation and reduction in the area in which the pamphlet is to be used;

"(7) state that a risk assessment or inspection for lead-based paint is recommended prior to the purchase, lease, or renovation of target housing;

"(8) state that certain State and local laws impose additional requirements related to lead-based paint in housing and provide a listing of Federal, State, and local agencies in each State, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and

"(9) provide such other information about environmental hazards associated with residential real property as the Administrator deems appropriate.

"(b) RENOVATION OF TARGET HOUSING.—Within 2 years after the enactment of this section, the Administrator shall promulgate regulations under this subsection to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

<< 15 USCA § 2687 >>

"SEC. 407. REGULATIONS.

"The regulations of the Administrator under this title shall include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of this title. The regulations may be amended from time to time as necessary.

<< 15 USCA § 2688 >>

"SEC. 408. CONTROL OF LEAD–BASED PAINT HAZARDS AT FEDERAL FACILITIES.

"Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for certification, licensing, recordkeeping, or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief) respecting lead-based paint, lead-based paint activities, and lead-based paint hazards in the same manner, and to the same extent as any nongovernmental entity is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines regardless of whether such penalties or fines are punitive or coercive in nature, or whether imposed for isolated, intermittent or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this section include, but are not limited to, fees or charges assessed for certification and licensing, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local lead-based paint, lead-based paint activities, or lead-based paint hazard activities program. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law relating to lead-based paint, lead-based paint activities, or lead-based paint hazards with respect to any act or omission within the scope of his official duties.

<< 15 USCA § 2689 >>

"SEC. 409. PROHIBITED ACTS.

"It shall be unlawful for any person to fail or refuse to comply with a provision of this title or with any rule or order issued under this title.

<< 15 USCA § 2690 >>

"SEC. 410. RELATIONSHIP TO OTHER FEDERAL LAW.

"Nothing in this title shall affect the authority of other appropriate Federal agencies to establish or enforce any requirements which are at least as stringent as those established pursuant to this title.

<< 15 USCA § 2691 >>

"SEC. 411. GENERAL PROVISIONS RELATING TO ADMINISTRATIVE PROCEEDINGS.

"(a) APPLICABILITY.—This section applies to the promulgation or revision of any regulation issued under this title.

"(b) RULEMAKING DOCKET.—Not later than the date of proposal of any action to which this section applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be established in the appropriate regional office of the Environmental Protection Agency.

"(c) INSPECTION AND COPYING.—(1) The rulemaking docket required under subsection (b) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

"(2)(A) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

"(B) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(d) EXPLANATION.—(1) The promulgated rule shall be accompanied by an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(2) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(3) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(e) JUDICIAL REVIEW.—The material referred to in subsection (c)(2)(B) shall not be included in the record for judicial review.

"(f) EFFECTIVE DATE.—The requirements of this section shall take effect with respect to any rule the proposal of which occurs after 90 days after the date of the enactment of this section.

"SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

<< 15 USCA § 2692 >>

"There are authorized to be appropriated to carry out the purposes of this title such sums as may be necessary.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2610) is amended as follows:

<< 15 USCA § 2606 >>

(1) In paragraph (1) of section 7(a), strike "or 6" and insert "6, or title IV" and after "5" insert "or title IV".

<< 15 USCA § 2610 >>

(2) In the first sentence of subsection (a) of section 11:
(A) Strike "or mixtures" before "are manufactured" and insert ", mixtures, or products subject to title IV".
(B) Insert "such products," before "or such articles".
(3) In paragraph (1) of subsection (b) of section 11, strike "or mixtures" and insert ", mixtures, or products subject to title IV".

<< 15 USCA § 2612 >>

(4) In paragraph (1) of section 13(a), strike "or 6" in each place it appears and insert ", 6, or title IV" and strike "or 7" and insert ", 7 or title IV".

<< 15 USCA § 2615 >>

(5) In section 16, insert "or 409" after "section 15" each place it appears.

<< 15 USCA § 2616 >>

(6) In section 17, amend subsection (a) to read as follows:
"(a) SPECIFIC ENFORCEMENT.—(1) The district courts of the United States shall have jurisdiction over civil actions to—
"(A) restrain any violation of section 15 or 409,
"(B) restrain any person from taking any action prohibited by section 5, 6, or title IV, or by a rule or order under section 5, 6, or title IV,
"(C) compel the taking of any action required by or under this Act, or
"(D) direct any manufacturer or processor of a chemical substance, mixture, or product subject to title IV manufactured or processed in violation of section 5, 6, or title IV, or a rule or order under section 5, 6, or title IV, and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance, mixture, or product and, to the extent reasonably ascertainable, to other persons in possession of such substance, mixture, or product or exposed to such substance, mixture, or product, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance, mixture, or product, whichever the person to which the requirement is directed elects.".
(7) In the first sentence of subsection (b) of section 17—
(A) strike "or mixture" after "Any chemical substance" and inserting ", mixture, or product subject to title IV"; and
(B) insert "product," before "or article" in each place that it appears.

<< 15 USCA § 2618 >>

(8) In section 19—
(A) In the first sentence of subsection (a), after "title II" insert "or IV".
(B) Before the semicolon at the end of subsection (a)(3)(B) insert "and in the case of a rule under title IV, the finding required for the issuance of such a rule".

<< 15 USCA § 2619 >>

(9) In section 20(a)(1) after "title II" insert "or IV" in each place it appears.
(10) Add at the end of the table of contents in section 1 the following:

<< 15 USCA § 2601 NOTE >>

(c) SHORT TITLE.—This subtitle may be cited as the "Lead–Based Paint Exposure Reduction Act".

<< 42 USCA Ch. 63A >>

Subtitle C—Worker Protection

<< 42 USCA § 4853 >>

SEC. 1031. WORKER PROTECTION.

Not later than 180 days after the enactment of this Act, the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead in the construction industry. Such interim final regulation shall provide employment and places of employment to employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development guidelines published at Federal Register 55, page 38973 (September 28, 1990) (Revised Chapter 8). Such interim final regulations shall take effect upon issuance (except that such regulations may include a reasonable delay in the effective date), shall have the legal effect of an Occupational Safety and Health Standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act of 1970.

<< 42 USCA § 4853a >>

SEC. 1032. COORDINATION BETWEEN ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF LABOR.

The Secretary of Labor, in promulgating regulations under section 1031, shall consult and coordinate with the Administrator of the Environmental Protection Agency for the purpose of achieving the maximum enforcement of title IV of the Toxic Substances Control Act and the Occupational Safety and Health Act of 1970 while imposing the least burdens of duplicative requirements on those subject to such title and Act and for other purposes.

<< 29 USCA § 671 >>

SEC. 1033. NIOSH RESPONSIBILITIES.

Section 22 of the Occupational Safety and Health Act of 1970 is amended by adding the following new subsection at the end thereof:
"(g) LEAD–BASED PAINT ACTIVITIES.—

"(1) TRAINING GRANT PROGRAM.—(A) The Institute, in conjunction with the Administrator of the Environmental Protection Agency, may make grants for the training and education of workers and supervisors who are or may be directly engaged in lead-based paint activities.

"(B) Grants referred to in subparagraph (A) shall be awarded to nonprofit organizations (including colleges and universities, joint labor-management trust funds, States, and nonprofit government employee organizations)—

"(i) which are engaged in the training and education of workers and supervisors who are or who may be directly engaged in lead-based paint activities (as defined in title IV of the Toxic Substances Control Act),

"(ii) which have demonstrated experience in implementing and operating health and safety training and education programs, and

"(iii) with a demonstrated ability to reach, and involve in lead-based paint training programs, target populations of individuals who are or will be engaged in lead-based paint activities.

Grants under this subsection shall be awarded only to those organizations that fund at least 30 percent of their lead-based paint activities training programs from non-Federal sources, excluding in-kind contributions. Grants may also be made to local governments to carry out such training and education for their employees.

"(C) There are authorized to be appropriated, at a minimum, $10,000,000 to the Institute for each of the fiscal years 1994 through 1997 to make grants under this paragraph.

"(2) EVALUATION OF PROGRAMS.—The Institute shall conduct periodic and comprehensive assessments of the efficacy of the worker and supervisor training programs developed and offered by those receiving grants under this section. The Director shall prepare reports on the results of these assessments addressed to the Administrator of the Environmental Protection Agency to include recommendations as may be appropriate for the revision of these programs. The sum of $500,000 is authorized to be appropriated to the Institute for each of the fiscal years 1994 through 1997 to carry out this paragraph.".

<< 42 USCA Ch. 63A >>

Subtitle D—Research and Development

PART 1—HUD RESEARCH

<< 42 USCA § 4854 >>

SEC. 1051.—RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

<< 42 USCA § 4854a >>

SEC. 1052. TESTING TECHNOLOGIES.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for evaluating lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

<< 42 USCA § 4854b >>

SEC. 1053. AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 1011(o), there shall be set aside to carry out this part $5,000,000 for fiscal year 1993, and $5,000,000 for fiscal year 1994.

PART 2—GAO REPORT

<< 42 USCA § 4855 >>

SEC. 1056. FEDERAL IMPLEMENTATION AND INSURANCE STUDY.

(a) FEDERAL IMPLEMENTATION STUDY.—The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (o) of section 8 of the United States Housing Act of 1937.

(b) INSURANCE STUDY.—The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;

(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and

(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

<< 42 USCA Ch. 63 >>

Subtitle E—Reports

<< 42 USCA § 4856 >>

SEC. 1061. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) ANNUAL REPORT.—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subtitle D; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, and at the end of every 24–month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) CONTENTS.—The report shall—

(A) assess the effectiveness of section 1018 in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

<< 42 USCA § 5318 NOTE >>

SEC. 1101. AUTHORITY.

To provide for the revitalization and renewal of inner city neighborhoods in the areas of Los Angeles, California, that were damaged by the civil disturbances during April and May of 1992, and to demonstrate the effectiveness of new town developments in revitalizing and restoring depressed and underprivileged inner city neighborhoods, the Secretary of Housing and Urban Development shall, to the extent or in such amounts as are provided in appropriation Acts, make any assistance authorized under this title available under this title to units of general local government, governing boards, and eligible mortgagors in accordance with the provisions of this title.

<< 42 USCA § 5318 NOTE >>

SEC. 1102. NEW TOWN PLAN.

(a) REQUIREMENT.—The Secretary may make assistance available under this title only in connection with, and according to the provisions of a new town plan developed and established by a governing board under section 1107 and approved under subsection (d) of this section. In developing such plans, the governing board shall consult with representatives of the units of general local government within whose boundaries are located any portion of the new town demonstration area for the demonstration program to be carried out under such plan.

(b) ELIGIBLE NEW TOWN DEMONSTRATION AREAS.—A new town plan under this section shall provide for carrying out a new town development demonstration providing assistance available under this title within a new town demonstration area, which shall be a geographic area defined in the new town plan—

(1) that is one of pervasive poverty, unemployment, and general distress;

(2) that has an unemployment rate of not less than 1.5 times the national unemployment rate for the 2 years preceding approval of the new town plan;

(3) that has a poverty rate of not less than 20 percent during such 2–year period;

(4) for which not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the unit of general local government in which they are located;

(5) that has a shortage of adequate jobs for residents; and

(6) that is located—

(A) in or near the City or County of Los Angeles, in the State of California; and

(B) within an area for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) CONTENTS.—Each new town plan shall include the following information:

(1) GOVERNING BOARD.—A description of the members and purposes of the governing board that developed the plan, the manner in which members of the governing board were selected, and the businesses, agencies, interests, and community ties of each member of the governing board.

(2) NEW TOWN DEMONSTRATION AREA.—A definition and description of the new town demonstration area for the new town development demonstration to be assisted under this title.

(3) TARGET COMMUNITY.—A description of the economic, social, racial, and ethnic characteristics of the population of the neighborhood or area in which the new town demonstration area is located.

(4) AGREEMENTS.—Agreements that the governing board will carry out the new town demonstration program in accordance with the requirements of this title.

(5) HOUSING UNITS.—A description of the number, size, location, cost, style, and characteristics of rental and homeownership housing units to be developed under the new town demonstration program, any financing for developing such housing, and the amount of assistance necessary under section 1105 for developing the housing under the program.

(6) JOBS.—A description of the number, types, and duration of any new jobs that will be created in the new town demonstration area and surrounding areas as a result of the demonstration program, and of any job training activities and apprenticeship programs to be made available in connection with the program.

(7) SOCIAL SERVICES.—A description of the social and supportive services to be made available under the demonstration program to residents of housing assisted under the demonstration program pursuant to section 1103(d) and to residents of the new town demonstration area.

(8) SUPPLEMENTAL RESOURCES.—A description of any funds, assistance, in-kind contributions, and other resources to be made available in connection with the demonstration program, including the sources and amounts of any private capital resources and non-Federal funds required under section 1103(h).

(9) CONTRACTORS AND DEVELOPERS.—A listing of the contractors and developers who potentially will carry out any construction and rehabilitation work for development of housing under the demonstration program and the expected costs involved in hiring such contractors and developers.

(10) FINANCING FOR HOMEBUYERS.—A description of any mortgage lenders who have indicated that they will make financing available to families purchasing housing developed under the demonstration program through mortgages eligible for insurance under section 1104 and proposed terms of such mortgages.

(11) COMMITMENTS.—Evidence of any commitments entered into for making any of the resources described in paragraphs (6) through (8) available in connection with the demonstration program.

(12) PRESALE REQUIREMENTS.—A description of commitments made to purchase not less than 50 percent of the housing to be developed under the demonstration program for purchase by the occupant and to rent not less than 50 percent of the rental dwelling units to be developed under the demonstration program.

(13) COMMUNITY DEVELOPMENT ACTIVITIES.—A description of the community development activities to be carried out with assistance under section 1106, the amount of assistance necessary under such section for such activities, and of the projected uses of such assistance.

(d) REVIEW AND APPROVAL.—

(1) SUBMISSION.—Not later than the expiration of the 6–month period beginning on the date of the enactment of this Act, a governing board shall submit a new town plan under this section to the chief executive officers of each unit of general local government within whose boundaries is located any portion of the new town demonstration area described under the plan of the board.

(2) APPROVAL.—For a plan to be eligible for assistance available under this title, the chief executive officer of all units of general local government to whom the new town plan is submitted shall approve the plan at a public meeting after the plan has been made publicly available for a period of not less than 30 days. A governing board may resubmit for approval any plan returned by any such chief executive officer to the governing board, and such chief executive officer may, upon returning the plan indicate any modifications necessary for approval. A new town plan may not be approved unless such chief executive officers determine that the membership of the governing board submitting the plan is constituted in accordance with section 1107 and the governing board is capable of carrying out the plan.

(3) AMENDMENT.—An approved new town plan for the demonstration program developed by the governing board may be amended by the board by obtaining approval of the amendment in the manner provided under this subsection for approval of plans. If the chief executive officer of the unit of general local government does not approve or return the amended plan within 30 days of submission, the amended plan shall be considered to be approved for purposes of this subsection.

<< 42 USCA § 5318 NOTE >>

SEC. 1103. NEW TOWN DEVELOPMENT DEMONSTRATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Each of the 2 new town development demonstration programs selected for assistance under this title under section 1102 shall be carried out, by the governing board submitting the new town plan for the demonstration program, in accordance with such plan (and any approved amendments of such plans) and shall be subject to the requirements under this section.

(b) LOCAL PARTICIPATION.—With respect to any activities carried out under the demonstration program, the program shall give preference in awarding contracts, purchasing materials, acquiring services, and obtaining assistance or training, to contractors, businesses, developers, professionals, and other establishments located or having offices within the new town demonstration area.

(c) HOUSING.—

(1) NUMBER OF UNITS.—The demonstration program shall construct or renovate not less than 1,500 dwelling units in the new town demonstration area, of which not less than 60 percent shall be units available for purchase by the occupant.

(2) AFFORDABILITY.—Units of varying sizes and costs shall be designed and developed under the demonstration program so that the program provides housing affordable to families of varying incomes not exceeding 115 percent of the median income for the area in which the new town demonstration area is located, including very low- and low-income families (as such terms are defined in section 3(b) of the United States Housing Act of 1937).

(3) HOMEOWNERSHIP UNITS.—Dwelling units developed under the demonstration program for purchase by the occupant shall initially be sold at prices affordable to families eligible to purchase such units. Such units shall be available for purchase only by families having incomes not exceeding the amount specified in paragraph (2). The demonstration shall develop 2–, 3–, and 4–bedroom units for purchase.

(4) RENTAL UNITS.—Dwelling units developed under the demonstration program that are to be available for rental shall include family-type units and single bedroom and efficiency units designed for elderly occupants. Such units shall be available for occupancy only by families who (upon initial occupancy) have incomes of (A) less than 60 percent of the median income for the area, or (B) less than $20,000. Occupant families shall pay not more than 30 percent of the family income for rent.

(d) SOCIAL SERVICES.—The demonstration program shall provide for appropriate social and supportive services to be made available to residents of housing assisted under the demonstration program and to other residents of the new town demonstration area, which may include rental and homeownership counseling, child care, job placement, educational programs, recreational and health care facilities and programs, and other appropriate services.

(e) JOB CREATION AND TRAINING.—The demonstration program shall provide, to the extent practicable, that activities in connection with the demonstration program, including development of housing under subsection (c) and community development activities assisted under section 1106, shall employ and provide job training opportunities for residents of the housing assisted under the demonstration program and other residents of the new town demonstration area.

(f) FINANCING.—The demonstration program shall provide for coordination with banks, credit unions, and other mortgage lenders to make financing available to purchasers of units developed under the demonstration program through mortgages eligible for insurance under section 1104, and shall give preference to such mortgage lenders who have offices located within or near the new town demonstration area.

(g) SUPPORT FACILITIES.—The demonstration program shall encourage, facilitate, and provide for development of appropriate support facilities to serve residents in the housing developed under the program, including infrastructure and commercial facilities.

(h) NON–FEDERAL FUNDS.—The governing board carrying out the demonstration program shall ensure that not less than 25 percent of the total amounts used to carry out the demonstration program is provided from non-Federal sources, including State or local government funds, any salary paid to staff to carry out the demonstration program, the value of any time, services, and materials donated to carry out the program, the value of any donated building, and the value of any lease on a building.

<< 42 USCA § 5318 NOTE >>

SEC. 1104. FEDERAL MORTGAGE INSURANCE.

(a) IN GENERAL.—Pursuant to title II and section 251 of the National Housing Act, the Secretary shall (to the extent authority is available pursuant to subsection (d)) insure mortgages under this section involving properties upon which are located dwelling units described in section 1103(c)(3) of this Act that are developed under the new town demonstration programs carried out pursuant to this title.

(b) MORTGAGE TERMS.—Mortgages insured under this section shall—

(1) provide for periodic adjustments in the effective rate of interest charged, which—

(A) for the first 5 years of the mortgage, shall be an annual rate of not more than 7 percent; and

(B) after the expiration of such 5–year period, may increase on an annual basis, but—

(i) shall be limited, with respect to any single interest rate increase, to not more than a 10–percent increase in the annual percentage rate; and

(ii) may not be increased at any time to a rate greater than the rate necessary at such time to fully amortize the outstanding loan balance over the term of the mortgage; and

(2) have a maturity of 35 years from the date of the beginning of the amortization of the mortgage.

(c) BOARD APPROVAL.—The Secretary may provide insurance under this section for a mortgage only if the governing board for the demonstration program for the new town demonstration area in which the property subject to the mortgage is located has indicated to the Secretary approval of the mortgage in connection with the demonstration program.

(d) INSURANCE AUTHORITY.—To the extent provided in appropriation Acts, the Secretary shall use any authority provided pursuant to section 531(b) of the National Housing Act to enter into commitments to insure loans and mortgages under this section in fiscal years 1993 and 1994 with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title. Mortgages insured under this section shall not be considered for purposes of the aggregate limitation on the number of mortgages insured under section 251 of the National Housing Act specified in subsection (c) of such section.

<< 42 USCA § 5318 NOTE >>

SEC. 1105. SECONDARY SOFT MORTGAGE FINANCING FOR HOUSING.

(a) IN GENERAL.—The Secretary shall, to the extent amounts are provided in appropriation Acts under subsection (e), provide assistance under this section through the governing boards carrying out the new town demonstration programs under this section to assist in the development of housing under the program.

(b) USE.—Any assistance provided under this section shall be used only for costs in planning, developing, constructing, and rehabilitating housing under the demonstration program available for rental or purchase by the occupant. The governing board shall determine, according to the new town plan for the demonstration program, the allocation of amounts of assistance provided under this section.

(c) AMOUNT.—The Secretary may not provide assistance under this section for the development of housing under a demonstration program in an amount exceeding $50,000 per dwelling unit assisted.

(d) SECOND MORTGAGE.—

(1) IN GENERAL.—Assistance under this section shall be repaid in accordance with this subsection. Repayment of the amount of any assistance provided with respect to—

(A) any building containing rental units, or

(B) any dwelling unit available for purchase by the occupant that is developed under a demonstration program,

shall be secured by a second mortgage held by the Secretary on the property involved.

(2) TERMS.—During the period ending upon repayment of the assistance as provided in this subsection, any building containing rental units that is provided assistance under this section shall be used as rental housing subject to the requirements of section 1103(c)(4). During the period ending upon repayment of the assistance as provided in this subsection, any dwelling unit made available for purchase by the occupant that is provided assistance under this section may be sold only to a family having an income not exceeding the amount specified in section 1103(c)(2).

(3) INTEREST.—Any assistance provided under this section for a building or dwelling unit shall bear interest at a rate equivalent to the rate for the most recently marketable obligations issued by the United States Treasury have terms of 10 years. The interest on such assistance shall be required to be repaid only upon sale of the building.

(4) DISCOUNTED REPAYMENT.—The assistance provided under this section for any building containing rental units or any dwelling unit available for purchase by the occupant shall be considered to have been repaid for purposes of this subsection if the original purchaser of the building or the dwelling unit pays to the Secretary an amount equal to 50 percent of the amount of the assistance provided under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for providing assistance under this section.

<< 42 USCA § 5318 NOTE >>

SEC. 1106. COMMUNITY DEVELOPMENT ASSISTANCE.

(a) IN GENERAL.—The Secretary shall provide assistance under this section, to the extent amounts are provided in appropriation Acts under subsection (h), to units of general local government to address vital unmet needs and to promote the creation of jobs and economic development in connection with the new town demonstration programs carried out under this title.

(b) ELIGIBLE UNITS OF GENERAL LOCAL GOVERNMENT.—Assistance may be provided under this section only to units of general local government—

(1) within whose boundaries are located any portion of the new town demonstration areas described under the new town demonstration plans for the demonstration programs carried out under this title;

(2) that make the certifications to the Secretary required under subsection (c); and

(3) that will comply with a residential antidisplacement and relocation assistance plan described in subsection (d).

(c) REQUIRED CERTIFICATIONS.—The certifications referred to in subsection (b)(2) shall be certifications that—

(1) the assistance will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Civil Rights Act of 1968, and the unit of general local government will affirmatively further fair housing;

(2) the projected use of funds has been developed in a manner that gives maximum feasible priority to activities which are designed to meet community development needs that have been delayed because of the lack of fiscal resources of the unit of general local government or which are designed to address conditions that pose a serious and immediate threat to the health or welfare of the community;

(3) any projected use of funds for public services will benefit primarily low- and moderate-income families;

(4) the unit of general local government will not attempt to recover any capital costs of public improvements assisted in whole or part under this section by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless —

(A) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this section; or

(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under this section to comply with the requirements of subparagraph (A); and

(5) the unit of general local government will comply with the other provisions of this title and with other applicable laws.

(d) ANTIDISPLACEMENT AND RELOCATION PLAN.—

(1) CONTENTS.—The residential antidisplacement and relocation assistance plan referred to in subsection (b)(3) shall, in connection with activities assisted under this section—

(A) provide that, in the event of such displacement—

(i) governmental agencies or private developers shall provide, within the same community, comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low- and moderate-income dwelling units demolished or converted to a use other than for housing for low- and moderate-income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low- and moderate-income for 10 years from the time of initial occupancy;

(iii) relocation benefits shall be provided for all low- or moderate-income persons who occupied housing demolished or converted to a use other than for low- or moderate-income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low- and moderate-income, provide either—

(I) compensation sufficient to ensure that, for a 5–year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and

(iv) persons displaced shall be relocated into comparable replacement housing that is—

(I) decent, safe, and sanitary;

(II) adequate in size to accommodate the occupants;

(III) functionally equivalent; and

(IV) in an area not subject to unreasonably adverse environmental conditions; and

(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by the unit of general local government, the claimant may appeal to the Secretary, and that the decision of the Secretary shall be final unless a court determines the decision was arbitrary and capricious.

(2) EXCEPTION.—Paragraphs (1)(A)(i) and (1)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low- and moderate-income persons. A determination under this paragraph shall be final and nonreviewable.

(e) ELIGIBLE ACTIVITIES.—Activities assisted with amounts provided under this section may include only the following activities:

(1) ACQUISITION OF REAL PROPERTY.—The acquisition of real property (including air rights, water rights, and other interests therein) that is located within the new town demonstration area and is—

(A) blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) appropriate for rehabilitation activities;

(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this section;

(E) to be used as a facility for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act); or

(F) to be used for other public purposes.

(2) CONSTRUCTION OF PUBLIC WORKS AND FACILITIES.—The acquisition, construction, rehabilitation, or installation of public works or public facilities within the new town demonstration area, including buildings for the general conduct of government and facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act).

(3) CLEARANCE AND REHABILITATION OF BUILDINGS.—The clearance, removal, and rehabilitation of buildings and improvements located within the new town demonstration area, including interim assistance, assistance for facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act), and assistance to privately owned buildings and improvements.

(4) PROVISION OF PUBLIC SERVICES AND HOUSING.—

(A) PUBLIC SERVICES.—The provision of public services within the new town demonstration area that are concerned with job training and retraining, health care and education, crime prevention, drug abuse treatment and rehabilitation, child care, education, and recreation, which may include the provision of public health and public safety vehicles.

(B) HOUSING ACTIVITIES.—The acquisition and rehabilitation of housing for low- and moderate-income families within the new town demonstration area, except that any grantee that uses amounts received under this section for housing activities under this subparagraph shall make not less than 15 percent of the amount used for such housing activities available only for community housing development organizations and nonprofit organizations (as such terms are defined in section 104 of the Cranston–Gonzalez National Affordable Housing Act) for such activities;

(C) LIMITATION.—Not more than 25 percent of the amount of any assistance provided under this section (including program income) to any unit of general local government may be used for activities under this paragraph.

(5) RELOCATION ASSISTANCE.—Relocation payments and assistance for individuals, families, business, and organizations that are displaced as a result of activities assisted under this title.

(6) PAYMENT OF ADMINISTRATIVE EXPENSES.—Payment of reasonable administrative costs associated with activities assisted under this section and any expenses of developing the new town plan under section 1102.

(f) ALLOCATION OF ASSISTANCE.—The Secretary may not provide more than 50 percent of any amounts appropriated under this section in connection with any one of the 2 new town demonstration programs carried out under this title.

(g) OTHER REQUIREMENTS.—The provisions of subsections (f), (g), and (h) of section 104, subsections (c) and (d) of section 105, section 107, 108, 109, and 110 of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), shall apply to grantees receiving assistance under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for assistance under this section.

<< 42 USCA § 5318 NOTE >>

SEC. 1107. GOVERNING BOARDS.

(a) PURPOSE.—For purposes of this title, a governing board shall be a board organized for the purpose of developing a new town plan under this title and carrying out a new town development demonstration under this title.

(b) MEMBERSHIP.—Each governing board shall consist of not less than 10 members, who shall include—

(1) residents of the area in which the new town demonstration area under the plan developed by the board is located;

(2) owners of business in such area;

(3) leaders or participants in community groups in such area; and

(4) representatives of financial institutions located or having offices in such area.

(c) ORGANIZATION.—A governing board may organize itself and conduct business in the manner that the board determines is appropriate to carry out the new town development demonstration under this title.

<< 42 USCA § 5318 NOTE >>

SEC. 1108. REPORTS.

Each governing board carrying out a new town development demonstration under this title shall submit to the Congress the following information:

(1) NEW TOWN PLAN.—Upon approval of the new town plan of the governing board under section 1102(d), a copy of the approved plan.

(2) ANNUAL REPORTS.—For the 5–year period beginning upon the approval of the new town plan, annual reports for each 12–month period during such 5–year period, which shall be submitted within 3 months after the expiration of the 12–month period. Each report shall include a description of any activities during such period to carry out the demonstration program of the governing board, the use during such period of any assistance provided under this title, and any amendments under section 1102(d)(4) to the new town plan approved during such period.

<< 42 USCA § 5318 NOTE >>

SEC. 1109. DEFINITIONS.

For purposes of this title:

(1) DEMONSTRATION PROGRAM.—The terms "demonstration program" and "program" mean a new town development demonstration program receiving assistance under this title, which is carried out within a new town demonstration area by a governing board.

(2) GOVERNING BOARD.—The term "governing board" means a board established under section 1107.

(3) NEW TOWN DEMONSTRATION AREA.—The term "new town demonstration area" means the area defined in a new town plan in which the new town development demonstration under the plan is to be carried out.

(4) NEW TOWN PLAN.—The terms "new town plan" and "plan" mean a plan under section 1102 developed by a governing board.

(5) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of the State of California.

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

<< 42 USCA § 12705a NOTE >>

SEC. 1201. SHORT TITLE.

This title may be cited as the "Removal of Regulatory Barriers to Affordable Housing Act of 1992".

<< 42 USCA § 12705a >>

SEC. 1202. PURPOSES.

The purposes of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

<< 42 USCA § 12705b >>

SEC. 1203. DEFINITION OF REGULATORY BARRIERS TO AFFORDABLE HOUSING.

For purposes of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston–Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

SEC. 1204. GRANTS FOR REGULATORY BARRIER REMOVAL STRATEGIES AND IMPLEMENTATION.

<< 42 USCA § 12705c >>

(a) IN GENERAL.—The amounts set aside under section 107 of the Housing and Community Development Act of 1974 for the purpose of this subsection shall be available for grants under subsection (b) and (c).

(b) STATE GRANTS.—The Secretary may make grants to States for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a State program to reduce State and local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

(5) carrying out the simplification and consolidation of State administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

(c) LOCAL GRANTS.—The Secretary may make grants to units of general local government for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring local regulatory barriers;

(2) identifying local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a local program to reduce local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances; and

(5) carrying out the simplification and consolidation of local administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits.

(d) DEFINITION.—For purposes of this section, the terms "regulatory barriers to affordable housing" and "regulatory barriers" have the meaning given such terms in section 1203.

(e) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and for the selection of units of general local government to receive grants under subsection (f)(2).

(f) ALLOCATION OF AMOUNTS.—

(1) STATE GRANTS.—

(A) IN GENERAL.—Of the total amount appropriated for each fiscal year to carry out this subsection, the Secretary shall use two-thirds of such amount to provide grants under subsection (b) to each State submitting an application that is approved by the Secretary. Such amounts shall be allocated among the States based upon the measure of need (for the whole State) of each State, as determined under section 217(b)(1)(A) (excluding adjustments under section 217(b)(1)(D)) of the Cranston–Gonzalez National Affordable Housing Act, except that the minimum grant amount for each fiscal year grant shall be $100,000 (to the extent sufficient amounts are made available).

(B) PRO RATA DISTRIBUTION.—If insufficient amounts are made available for grants in the amount under subparagraph (A) to each State submitting an approved application, each such State shall receive a pro rata portion of such amount based on the ratio of the population of such State to the population of all States.

(2) LOCAL GRANTS.—Of the total amount appropriated for each fiscal year to carry out this section, the Secretary shall use one-third of such amount to provide grants on a competitive basis to units of general local government based on the proposed uses of such amounts, as provided in the application. Each grant made with such amounts shall be in an amount not less than $10,000.

(g) COORDINATION WITH CLEARINGHOUSE.—Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 1205.

(h) REPORTS TO SECRETARY.—Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

<< 42 USCA § 5306 >>

(i) CONFORMING AMENDMENTS.—The first sentence of section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "for grants" and all that follows through "(2))" and inserting "that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)".

<< 42 USCA § 12705d >>

SEC. 1205. REGULATORY BARRIERS CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a clearinghouse to receive, collect, process, and assemble information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a); and

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans.

<< 42 USCA § 12705 >>

SEC. 1206. SUBSTANTIALLY EQUIVALENT FEDERAL AND STATE BARRIER ASSESSMENT REMOVAL REQUIREMENTS.

Section 105(b)(4) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(4)) is amended by inserting before the semicolon at the end the following: ", except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph".

<< 42 USCA § 12705a NOTE >>

SEC. 1207. REPORTS BY SECRETARY.

Not later than 2 years after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress. The report shall—

(1) describe any successful State and local strategies for the removal of barriers to affordable housing;

(2) assess the impact of identified regulatory barriers on the housing patterns of minorities; and

(3) describe any strategies developed or implemented by the Department of Housing and Urban Development for reducing barriers to affordable housing imposed by the Federal Government.

<< 12 USCA Ch. 46 >>

TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES

<< 12 USCA § 4501 NOTE >>

SEC. 1301. SHORT TITLE.

This title may be cited as the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

<< 12 USCA § 4501 >>

SEC. 1302. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (referred to in this section collectively as the "enterprises"), and the Federal Home Loan Banks (referred to in this section as the "Banks"), have important public missions that are reflected in the statutes and charter Acts establishing the Banks and the enterprises;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) considering the current operating procedures of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, the enterprises and the Banks currently pose low financial risk of insolvency;

(4) neither the enterprises nor the Banks, nor any securities or obligations issued by the enterprises or the Banks, are backed by the full faith and credit of the United States;

(5) an entity regulating the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should have sufficient autonomy from the enterprises and special interest groups;

(6) an entity regulating such enterprises should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes;

(7) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(8) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness of the Federal Home Loan Banks is the primary mission of the Federal Housing Finance Board.

<< 12 USCA § 4502 >>

SEC. 1303. DEFINITIONS.

For purposes of this title:

(1) AFFILIATE.—Except as provided by the Director, the term "affiliate" means any entity that controls, is controlled by, or is under common control with, an enterprise.

(2) CAPITAL DISTRIBUTION.—

(A) IN GENERAL.—The term "capital distribution" means—

(i) any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) any payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; and

(iii) any transaction that the Director determines by regulation to be, in substance, the distribution of capital.

(B) EXCEPTION.—Any payment made by an enterprise to repurchase its shares for the purpose of fulfilling an obligation of the enterprise under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code of 1986 or any substantially equivalent plan, as determined by the Director, shall not be considered a capital distribution.

(3) COMPENSATION.—The term "compensation" means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(4) CORE CAPITAL.—The term "core capital" means, with respect to an enterprise, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par or stated value of outstanding common stock.

(B) The par or stated value of outstanding perpetual, noncumulative preferred stock.

(C) Paid-in capital.
(D) Retained earnings.

The core capital of an enterprise shall not include any amounts that the enterprise could be required to pay, at the option of investors, to retire capital instruments.

(5) DIRECTOR.—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(6) ENTERPRISE.—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(8) LOW–INCOME.—The term "low-income" means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(9) MEDIAN INCOME.—The term "median income" means, with respect to an area, the unadjusted median family income for the area, as determined and published annually by the Secretary.

(10) MODERATE–INCOME.—The term "moderate-income" means—

(A) in the case of owner-occupied units, income not in excess of area median income; and

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(11) MORTGAGE PURCHASES.—The term "mortgage purchases" includes mortgages purchased for portfolio or securitization.

(12) MULTIFAMILY HOUSING.—The term "multifamily housing" means a residence consisting of more than 4 dwelling units.

(13) NEW PROGRAM.—The term "new program" means any program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from programs that have been approved under this Act or that were approved or engaged in by an enterprise before the date of the enactment of this Act; or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of programs above limits expressly contained in any prior approval.

(14) OFFICE.—The term "Office" means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(15) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(16) SINGLE FAMILY HOUSING.—The term "single family housing" means a residence consisting of 1 to 4 dwelling units.

(17) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) TOTAL CAPITAL.—The term "total capital" means, with respect to an enterprise, the sum of the following:

(A) The core capital of the enterprise;

(B) A general allowance for foreclosure losses, which—

(i) shall include an allowance for portfolio mortgage losses, an allowance for nonreimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the enterprise for estimated foreclosure losses on mortgage-backed securities; and

(ii) shall not include any reserves of the enterprise made or held against specific assets.

(C) Any other amounts from sources of funds available to absorb losses incurred by the enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(19) VERY LOW–INCOME.—The term "very low-income" means—

(A) in the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(B) in the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

<< 12 USCA § 4503 >>

SEC. 1304. PROTECTION OF TAXPAYERS AGAINST LIABILITY.

This title and the amendments made by this title may not be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks. This title and the amendments made by this title may not be construed as implying that any such enterprise or Bank, or any obligations or securities of such an enterprise or Bank, are backed by the full faith and credit of the United States.

<< 12 USCA Ch. 46 >>

Subtitle A—Supervision and Regulation of Enterprises

PART 1—FINANCIAL SAFETY AND SOUNDNESS REGULATOR

<< 12 USCA § 4511 >>

SEC. 1311. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Federal Housing Enterprise Oversight.

<< 12 USCA § 4512 >>

SEC. 1312. DIRECTOR.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 3–year period ending upon the nomination of such individual for appointment as Director.

(b) TERM.—The Director shall be appointed for a term of 5 years.

(c) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(d) SERVICE AFTER END OF TERM.—A Director may serve after the expiration of the term for which the Director was appointed until a successor Director has been appointed.

(e) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 3–year period ending upon the appointment of such individual as Deputy Director.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (c).

<< 12 USCA § 4513 >>

SEC. 1313. DUTY AND AUTHORITY OF DIRECTOR.

(a) DUTY.—The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely in accordance with this title.

(b) AUTHORITY EXCLUSIVE OF SECRETARY.—The Director is authorized, without the review or approval of the Secretary, to make such determinations, take such actions, and perform such functions as the Director determines necessary regarding—

(1) the issuance of regulations to carry out this part, subtitle B, and subtitle C (including the establishment of capital standards pursuant to subtitle B);

(2) examinations of the enterprises under section 1317;

(3) determining the capital levels of the enterprises and classification of the enterprises within capital classifications established under subtitle B;

(4) decisions to appoint conservators for the enterprises;

(5) administrative and enforcement actions under subtitle B, actions taken under subtitle C with respect to enforcement of subtitle B, and other matters relating to safety and soundness;

(6) approval of payments of capital distributions by the enterprises under section 303(c)(2) of the Federal National Mortgage Association Charter Act and section 303(b)(2) of the Federal Home Loan Mortgage Corporation Act;

(7) requiring the enterprises to submit reports under section 1314 of this title, section 309(k) of the Federal National Mortgage Association Charter Act, and section 307(c) of the Federal Home Loan Mortgage Corporation Act;

(8) prohibiting the payment of excessive compensation by the enterprises to any executive officer of the enterprises under section 1318;

(9) the management of the Office, including the establishment and implementation of annual budgets, the hiring of, and compensation levels for, personnel of the Office, and annual assessments for the costs of the Office;

(10) conducting research and financial analysis; and

(11) the submission of reports required by the Director under this title.

(c) AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.—Any determinations, actions, and functions of the Director not referred to in subsection (b) shall be subject to the review and approval of the Secretary.

(d) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(e) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—The Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

<< 12 USCA § 4514 >>

SEC. 1314. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

(a) SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION.—

(1) FINANCIAL CONDITION.—The Director may require an enterprise to submit reports of financial condition and operations (in addition to the annual and quarterly reports required under section 309(k) of the Federal National Mortgage Association Charter Act and section 307(c) of the Federal Home Loan Mortgage Corporation Act).

(2) SPECIAL REPORTS.—The Director may also require an enterprise to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of this title.

(3) LIMITATION.—The Director may not require the inclusion, in any report pursuant to paragraph (1) or (2), of any information that is not reasonably obtainable by the enterprise.

(4) NOTICE AND DECLARATION.—The Director shall notify the enterprise, a reasonable period in advance of the date for submission of any report under this subsection, of any specific information to be contained in the report and the date for the submission of the report. Each report under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the enterprise to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(b) CAPITAL DISTRIBUTIONS.—The Director may require an enterprise to submit a report to the Director after the declaration of any capital distribution by the enterprise and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

<< 12 USCA § 4515 >>

SEC. 1315. PERSONNEL.

(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) REIMBURSEMENT OF HUD.—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(e) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(f) EQUAL OPPORTUNITY REPORT.—Not later than the expiration of the 180–day period beginning upon the appointment of the Director under section 1312, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director determines appropriate to carry out such programs.

<< 12 USCA § 4516 >>

SEC. 1316. FUNDING.

(a) ANNUAL ASSESSMENTS.—The Director may, to the extent provided in appropriation Acts, establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Office, including the expenses of any examinations under section 1317. The initial annual assessment shall include any startup costs of the Office and any anticipated costs and expenses of the Office for the following fiscal year.

(b) ALLOCATION OF ANNUAL ASSESSMENT TO ENTERPRISES.—

(1) AMOUNT OF PAYMENT.—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually on September 1 and March 1 of the year for which the assessment is made.

(3) DEFINITION.—For the purpose of this section, the term "total assets" means, with respect to an enterprise, the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage-backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION.—The semiannual payments made pursuant to subsection (b) by any enterprise that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the enterprise.

(d) SURPLUS.—If any amount from any annual assessment collected from an enterprise remains unobligated at the end of the year for which the assessment was collected, such amount shall be credited to the assessment to be collected from the enterprise for the following year.

(e) INITIAL SPECIAL ASSESSMENT.—Not later than the expiration of the 30–day period beginning on the date of the enactment of this Act, the enterprises shall each pay into the Federal Housing Enterprises Oversight Fund established under subsection (f) an initial assessment of $1,500,000 to cover the startup costs of the Office, including space and modifications thereof, capital equipment, supplies, recruitment, and activities of the Office during the period preceding the first annual assessment under subsection (a). Any amounts collected from an enterprise under this subsection shall be credited against the first annual assessment collected pursuant to subsection (a), and are hereby appropriated, and shall be available and used, without fiscal year limitation, as provided in this section.

(f) FUND.—There is established in the Treasury of the United States a fund to be known as the Federal Housing Enterprises Oversight Fund. Any assessments collected pursuant to this section shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriation Acts and subsection (e), for—

(1) carrying out the responsibilities of the Director relating to the enterprises; and

(2) necessary administrative and nonadministrative expenses of the Office to carry out the purposes of this title.

(g) BUDGET AND FINANCIAL REPORTS.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Secretary and the Director of the Office of Management and Budget.

(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Secretary and the Director of the Office of Management and Budget.

(3) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this subsection shall be included (A) in the Budget of the United States in the appropriate form, and (B) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

<< 12 USCA § 4517 >>

SEC. 1317. EXAMINATIONS.

(a) ANNUAL EXAMINATION.—The Director shall annually conduct an on-site examination under this section of each enterprise to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(b) OTHER EXAMINATIONS.—In addition to annual examinations under subsection (a), the Director may conduct an examination under this section whenever the Director determines that an examination is necessary to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness.

(c) EXAMINERS.—The Director shall appoint examiners to conduct examinations under this section. The Director may contract with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision for the services of examiners. The Director shall reimburse such agencies for any costs of providing examiners from amounts available in the Federal Housing Enterprises Oversight Fund.

(d) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to the same disclosures, prohibitions, obligations, and penalties as are applicable to examiners employed by the Federal Reserve banks.

(e) TECHNICAL EXPERTS.—The Director may obtain the services of any technical experts the Director considers appropriate to provide temporary technical assistance relating to examinations to the Director, officers, and employees of the Office. The Director shall describe, in the record of each examination, the nature and extent of any such temporary technical assistance.

(f) OATHS, EVIDENCE, AND SUBPOENA POWERS.—In connection with examinations under this section, the Director shall have the authority provided under section 1379B.

<< 12 USCA § 4518 >>

SEC. 1318. PROHIBITION OF EXCESSIVE COMPENSATION.

(a) IN GENERAL.—The Director shall prohibit the enterprises from providing compensation to any executive officer of the enterprise that is not reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities.

(b) PROHIBITION OF SETTING COMPENSATION.—In carrying out subsection (a), the Director may not prescribe or set a specific level or range of compensation.

<< 12 USCA § 4519 >>

SEC. 1319. AUTHORITY TO PROVIDE FOR REVIEW OF ENTERPRISES BY RATING ORGANIZATION.

The Director may, on such terms and conditions as the Director deems appropriate, contract with any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers, to conduct a review of the enterprises.

<< 12 USCA § 4520 >>

SEC. 1319A. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—Each enterprise shall establish a minority outreach program to ensure the inclusion (to the maximum extent possible) in contracts entered into by the enterprises of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services.

(b) REPORT.—Not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, each enterprise shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken by the enterprise pursuant to subsection (a).

<< 12 USCA § 4521 >>

SEC. 1319B. ANNUAL REPORTS BY DIRECTOR.

(a) GENERAL REPORT.—The Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this title;

(2) a description of the financial safety and soundness of each enterprise, including the results and conclusions of the annual examinations of the enterprises conducted under section 1317(a); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the enterprises.

(b) REPORT ON ENFORCEMENT ACTIONS.—Not later than March 15 of each year, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under subtitle C and describing the disposition of each request, which shall include statements of—

(1) the total number of requests made by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to requests that resulted in the commencement of litigation—

(A) the number of days between the date of the request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation; and

(5) the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

<< 12 USCA § 4522 >>

SEC. 1319C. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under subtitle C and that has become final; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any action of the Director or notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing under subtitle C if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under subtitle C.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

<< 12 USCA § 4523 >>

SEC. 1319D. LIMITATION ON SUBSEQUENT EMPLOYMENT.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code, may accept compensation from an enterprise during the 2–year period beginning on the date of separation from employment by the Office.

<< 12 USCA § 4524 >>

SEC. 1319E. AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

<< 12 USCA § 4525 >>

SEC. 1319F. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code—
(1) the Office, and
(2) the Department of Housing and Urban Development, with respect to activities under this title,

shall be considered agencies responsible for the regulation or supervision of financial institutions.

<< 12 USCA § 4526 >>

SEC. 1319G. REGULATIONS AND ORDERS.

(a) AUTHORITY.—The Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this title before the expiration of the 18–month period beginning on the appointment of the Director under section 1312. Such regulations and orders shall be subject to the approval of the Secretary only to the extent provided in subsections (b) and (c) of section 1313.
(b) NOTICE AND COMMENT.—Any regulations issued by the Director under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.
(c) CONGRESSIONAL REVIEW.—The Director may not publish any regulation for comment under subsection (b) unless, not less than 15 days before it is published for comment, the Director has submitted a copy of the regulation, in the form it is intended to be proposed, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

<< 12 USCA Ch. 46 >>

PART 2—AUTHORITY OF SECRETARY

Subpart A—General Authority

<< 12 USCA § 4541 >>

SEC. 1321. REGULATORY AUTHORITY.

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight described in section 1313(b) and all other matters relating to the safety and soundness of the enterprises, the Secretary of Housing and Urban Development shall have general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this part and the purposes of the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act are accomplished.

<< 12 USCA § 4542 >>

SEC. 1322. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.

(a) AUTHORITY.—The Secretary shall require each enterprise to obtain the approval of the Secretary for any new program of the enterprise before implementing the program.

(b) STANDARD FOR APPROVAL.—

(1) PERMANENT STANDARD.—Except as provided in paragraph (2), the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) for a new program of the Federal National Mortgage Association, the Secretary determines that the program is not authorized under paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act, or under section 304 of such Act;

(B) for a new program of the Federal Home Loan Mortgage Corporation, the Secretary determines that the program is not authorized under section 305(a)(1), (4), or (5) of the Federal Home Loan Mortgage Corporation Act; or

(C) the Secretary determines that the new program is not in the public interest.

(2) TRANSITION STANDARD.—Before the date occurring 12 months after the date of the effectiveness of the regulations under section 1361(e) establishing the risk-based capital test, the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) The Secretary makes a determination as described in paragraph (1)(A), (B), or (C); or

(B) the Director determines that the new program would risk significant deterioration of the financial condition of the enterprise.

(c) PROCEDURE FOR APPROVAL.—

(1) SUBMISSION OF REQUEST.—To obtain the approval of the Secretary for purposes of subsection (a), an enterprise shall submit to the Secretary a written request for approval of the new program that describes the program.

(2) RESPONSE.—The Secretary shall, not later than the expiration of the 45–day period beginning upon the submission of a request for approval, approve the request or submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report explaining the reasons for not approving the request. The Secretary may extend such period for a single additional 15–day period only if the Secretary requests additional information from the enterprise.

(3) FAILURE TO RESPOND.—If the Secretary fails to approve the request or fails to submit a report under paragraph (2) during the period under such paragraph, the request shall be considered to have been approved.

(4) REVIEW OF DISAPPROVAL.—

(A) UNAUTHORIZED NEW PROGRAMS.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subparagraph (A) or (B) of subsection (b)(1), the Secretary shall provide the enterprise submitting the request with a timely opportunity to review and supplement the administrative record.

(B) NEW PROGRAMS NOT IN PUBLIC INTEREST.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subsection (b)(1)(C) or (b)(2)(B), the Secretary shall provide the enterprise submitting the request notice of, and opportunity for, a hearing on the record regarding such disapproval.

<< 12 USCA § 4543 >>

SEC. 1323. PUBLIC ACCESS TO MORTGAGE INFORMATION.

(a) IN GENERAL.—The Secretary shall make available to the public, in forms useful to the public (including forms accessible by computers), the data submitted by the enterprises in the reports required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(e) of the Federal Home Loan Mortgage Corporation Act.

(b) ACCESS.—

(1) PROPRIETARY DATA.—Except as provided in paragraph (2), the Secretary may not make available to the public data that the Secretary determines pursuant to section 1326 are proprietary information.

(2) EXCEPTION.—The Secretary shall not restrict access to the data provided in accordance with section 309(m)(1)(A) of the Federal National Mortgage Association Charter Act or section 307(e)(1)(A) of the Federal Home Loan Mortgage Corporation Act.

(c) FEES.—The Secretary may charge reasonable fees to cover the cost of making data available under this section to the public.

<< 12 USCA § 4544 >>

SEC. 1324. ANNUAL HOUSING REPORT.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Secretary shall submit a report, as part of the annual report under section 1328(a) of this title, on the extent to which each enterprise is achieving the annual housing goals established under subpart B of this part and the purposes of the enterprise established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess the compliance of each enterprise with the central cities, rural areas, and other underserved areas housing goal and to determine levels of business in central cities, rural areas, underserved areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Secretary;

(2) aggregate and analyze data on income to assess the compliance of each enterprise with the low- and moderate-income and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken or could undertake to promote and expand the annual goals established under sections 1332, 1333, and 1334, and the purposes of the enterprise established by law;

(5) examine the primary and secondary multifamily housing mortgage markets and describe—

(A) the availability and liquidity of mortgage credit;

(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

(C) any factors inhibiting such standardization and securitization;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures.

<< 12 USCA § 4545 >>

SEC. 1325. FAIR HOUSING.

The Secretary shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act;

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act, and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act, for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

<< 12 USCA § 4546 >>

SEC. 1326. PROHIBITION OF PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—The Secretary may, by regulation or order, provide that certain information shall be treated as proprietary information and not subject to disclosure under section 1323 of this title, section 309(n)(3) of the Federal National Mortgage Association Charter Act, or section 307(f)(3) of the Federal Home Loan Mortgage Corporation Act.
(b) PROTECTION OF INFORMATION ON HOUSING ACTIVITIES.—The Secretary shall not provide public access to, or disclose to the public, any information required to be submitted by an enterprise under section 309(n) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act that the Secretary determines is proprietary.
(c) NONDISCLOSURE PENDING CONSIDERATION.—This section may not be construed to authorize the disclosure of information to, or examination of data by, the public or a representative of any person or agency pending the issuance of a final decision under this section.

<< 12 USCA § 4547 >>

SEC. 1327. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

The Secretary shall require each enterprise to submit reports on its activities to the Secretary as the Secretary considers appropriate.

<< 12 USCA § 4548 >>

SEC. 1328. REPORTS BY SECRETARY.

(a) ANNUAL REPORT.—The Secretary shall, not later than June 30 of each year, submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of each enterprise.
(b) VIEWS ON BUDGET AND FINANCIAL PLANS OF ENTERPRISES.—On an annual basis, the Secretary shall provide the Committees referred to in subsection (a) with comments on the plans, forecasts, and reports required under section 1316(g).

<< 12 USCA Ch. 46 >>

Subpart B—Housing Goals

<< 12 USCA § 4561 >>

SEC. 1331. ESTABLISHMENT.

(a) IN GENERAL.—The Secretary shall establish, by regulation, housing goals under this subpart for each enterprise. The housing goals shall include a low-and moderate-income housing goal pursuant to section 1332, a special affordable housing goal pursuant to section 1333, and a central cities, rural areas, and other underserved areas housing goal pursuant to section 1334. The Secretary shall implement this subpart in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.
(b) CONSIDERATION OF UNITS IN MULTIFAMILY HOUSING.—In establishing any goal under this subpart, the Secretary may take into consideration the number of housing units financed by any mortgage on multifamily housing purchased by an enterprise.
(c) ADJUSTMENT OF HOUSING GOALS.—Except as otherwise provided in this title, from year to year the Secretary may, by regulation, adjust any housing goal established under this subpart.

<< 12 USCA § 4562 >>

SEC. 1332. LOW– AND MODERATE–INCOME HOUSING GOAL.

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing for low- and moderate-income families. The Secretary may establish separate specific subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the goal under this section, the Secretary shall consider—

(1) national housing needs;

(2) economic, housing, and demographic conditions;

(3) the performance and effort of the enterprises toward achieving the low-and moderate-income housing goal in previous years;

(4) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available for low- and moderate-income families; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) TRANSITION.—

(1) INTERIM TARGET.—Notwithstanding any other provision of this section, during the 2–year period beginning on January 1, 1993, the annual target under this section for low- and moderate-income mortgage purchases for each enterprise shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) INTERIM GOAL.—During such 2–year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2–year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90–day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

<< 12 USCA § 4563 >>

SEC. 1333. SPECIAL AFFORDABLE HOUSING GOAL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a special annual goal designed to adjust the purchase by each enterprise of mortgages on rental and owner-occupied housing to meet the then-existing unaddressed needs of, and affordable to, low-

income families in low-income areas and very low-income families. The special affordable housing goal established under this section for an enterprise shall not be less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) STANDARDS.—In establishing the special affordable housing goal for an enterprise, the Secretary shall consider—

(A) data submitted to the Secretary in connection with the special affordable housing goal for previous years;

(B) the performance and efforts of the enterprise toward achieving the special affordable housing goal in previous years;

(C) national housing needs within the categories set forth in this section;

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income and very low-income families; and

(E) the need to maintain the sound financial condition of the enterprise.

(b) FULL CREDIT ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall give full credit toward achievement of the special affordable housing goal under this section (for purposes of section 1336) to the following activities:

(A) FEDERALLY RELATED MORTGAGES.—The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or any other Federal agency;

(ii) participation of the enterprise substantially enhances the affordability of the housing subject to such mortgages; and

(iii) the mortgages involved are on housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(B) PORTFOLIOS.—The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet such goal; and

(ii) such purchases or refinancings support additional lending for housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(C) RTC AND FDIC LOANS.—The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans—

(i) are not guaranteed by such agencies themselves or other Federal agencies;

(ii) are made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers; and

(iii) are made for the purchase of housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(2) EXCLUSION.—No credit toward the achievement of the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of the existing enterprise portfolios.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income and very low-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) TRANSITION.—

(1) FNMA MORTGAGE PURCHASES.—Notwithstanding any other provision of this section, during the 2–year period beginning on January 1, 1993, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than $2,000,000,000 (for such 2–year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(2) FHLMC MORTGAGE PURCHASES.—Notwithstanding any other provision of this section, during the 2–year period beginning on January 1, 1993, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than $1,500,000,000 (for such 2–year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(3) INCOME CHARACTERISTICS FOR MORTGAGE PURCHASES.—

(A) MULTIFAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on multifamily housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages on multifamily housing affordable to low-income families; and

(ii) 55 percent shall be mortgages on multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to very low-income families.

(B) SINGLE FAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on single family housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages of low-income families who live in census tracts in which the median income does not exceed 80 percent of the area median income; and

(ii) 55 percent shall be mortgages of very low-income families.

(C) COMPLIANCE WITH SPECIAL AFFORDABLE HOUSING GOALS.—Only the portion of mortgages on multifamily housing purchased by an enterprise that are attributable to units affordable to low-income families shall contribute to the achievement of the special affordable housing goals under subparagraph (A)(ii).

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90–day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

<< 12 USCA § 4564 >>

SEC. 1334. CENTRAL CITIES, RURAL AREAS, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing located in central cities, rural areas, and other underserved areas. The Secretary may establish separate subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the housing goal under this section, the Secretary shall consider—

(1) urban and rural housing needs and the housing needs of underserved areas;

(2) economic, housing, and demographic conditions;

(3) the performance and efforts of the enterprises toward achieving the central cities, rural areas, and other underserved areas housing goal in previous years;

(4) the size of the conventional mortgage market for central cities, rural areas, and other underserved areas relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available throughout the United States, including central cities, rural areas, and other underserved areas; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) LOCATION OF PROPERTIES.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on the location of the properties subject to mortgages purchased by each enterprise.

(d) TRANSITION.—

(1) INTERIM TARGET.—Notwithstanding any other provision of this section, during the 2–year period beginning on January 1, 1993, the annual target under this section for purchases by each enterprise of mortgages on housing located in central cities shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) INTERIM GOAL.—During such 2–year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2–year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) DEFINITION OF CENTRAL CITY.—For purposes of this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90–day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

<< 12 USCA § 4565 >>

SEC. 1335. OTHER REQUIREMENTS.

To meet the low- and moderate-income housing goal under section 1332, the special affordable housing goal under section 1333, and the central cities, rural areas, and other underserved areas housing goal under section 1334, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977,

which shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

<< 12 USCA § 4566 >>

SEC. 1336. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary shall monitor and enforce compliance with the housing goals established under sections 1332, 1333, and 1334, as provided in this section.

(2) GUIDELINES.—The Secretary shall establish guidelines to measure the extent of compliance with the housing goals, which may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Secretary deems appropriate.

(3) EXTENT OF COMPLIANCE.—In determining compliance with the housing goals established under this subpart, the Secretary—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

(b) NOTICE AND DETERMINATION OF FAILURE TO MEET GOALS.—

(1) NOTICE.—If the Secretary determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, the Secretary shall provide written notice to the enterprise of such a determination, the reasons for such determination, the requirement to submit a housing plan under subsection (c) of this section, and the information on which the Secretary based the determination or imposed such requirement.

(2) RESPONSE PERIOD.—

(A) IN GENERAL.—During the 30–day period beginning on the date that an enterprise is provided notice under paragraph (1), the enterprise may submit to the Secretary any written information that the enterprise considers appropriate for consideration by the Secretary in determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

(B) EXTENDED PERIOD.—The Secretary may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

(C) SHORTENED PERIOD.—The Secretary may shorten the period under subparagraph (A) for good cause.

(D) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the 30–day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Secretary.

(3) CONSIDERATION OF INFORMATION AND DETERMINATION.—

(A) IN GENERAL.—After the expiration of the response period under paragraph (2) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Secretary shall determine (i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal, and (ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

(B) CONSIDERATIONS.—In making such determinations, the Secretary shall take into consideration any relevant information submitted by the enterprise during the response period.

(C) NOTICE.—The Secretary shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of—

(i) each determination that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

(ii) each determination that the achievement of a housing goal was or is feasible; and

(iii) the reasons for each such determination.

Such notice shall respond to any information submitted during the response period.

(c) HOUSING PLANS.—

(1) REQUIREMENT.—If the Secretary finds pursuant to subsection (b), that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, and that the achievement of the housing goal was or is feasible, the Secretary shall require the enterprise to submit a housing plan under this subsection for approval by the Secretary.

(2) CONTENTS.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next calendar year; or

(B) if the Secretary determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of such year.

The plan shall be sufficiently specific to enable the Secretary to monitor compliance periodically.

(3) DEADLINE FOR SUBMISSION.—The Secretary shall, by regulation, establish a deadline for an enterprise to submit a housing plan to the Secretary, which may not be more than 45 days after the enterprise is provided notice under subsection (b)(3) that a housing plan is required. The regulations shall provide that the Secretary may extend the deadline to the extent that the Secretary determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(4) APPROVAL.—The Secretary shall review each housing plan submitted under this subsection and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Secretary may extend the period for approval or disapproval

for a single additional 30–day period if the Secretary determines it necessary. The Secretary shall approve any plan that the Secretary determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable laws and regulations.

(5) NOTICE OF APPROVAL AND DISAPPROVAL.—The Secretary shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(6) RESUBMISSION.—If the initial housing plan submitted by an enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Secretary within 30 days or such longer period that the Secretary determines is in the public interest.

<< 12 USCA § 4567 >>

SEC. 1337. REPORTS DURING TRANSITION.

Each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report for each transitional housing goal for the enterprise under section 1332(d), 1333(d), or 1334(d), describing the actions the enterprise plans to take to meet such goal. Each such report shall be submitted within 45 days after the establishment of the goal for which the report is submitted.

<< 12 USCA §§ 4562 NOTE, 4563 nt, 4564 nt >>

SEC. 1338. EFFECTIVE DATE OF TRANSITION GOALS.

The housing goals established under sections 1332(d), 1333(d), and 1334(d) shall not become effective until January 1, 1993.

<< 12 USCA Ch. 46 >>

Subpart C—Enforcement of Housing Goals

<< 12 USCA § 4581 >>

SEC. 1341. CEASE–AND–DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Secretary may issue and serve a notice of charges under this section upon an enterprise if, in the determination of the Secretary—

(1) the enterprise has failed to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) the enterprise is engaging or has engaged, or the Secretary has reasonable cause to believe that the enterprise is about to engage, in any failure to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) ISSUANCE OF ORDER.—If the Secretary finds on the record made at such hearing that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Secretary may issue and serve upon the enterprise an order requiring the enterprise to (A) submit a housing plan in compliance with section 1336(c), (B) comply with the housing plan, or (C) provide the information required under subsection (m) or (n) of section 309 of the

Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30–day period beginning on the service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Secretary or otherwise, as provided in this subpart.

(d) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any cease-and-desist order under this section for any failure by an enterprise, during the 2–year period beginning on the January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with the approved plan.

<< 12 USCA § 4582 >>

SEC. 1342. HEARINGS.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1341 or 1345 shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1341(b)(1) or determination to impose a penalty under section 1345(c)(1), unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the enterprise has been notified that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon the enterprise an order or orders consistent with the provisions of this subpart.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 1343. Unless such a petition for review is timely filed as provided in section 1343, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Secretary considers proper. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

<< 12 USCA § 4583 >>

SEC. 1343. JUDICIAL REVIEW.

(a) COMMENCEMENT.—An enterprise that is a party to a proceeding under section 1341 or 1345 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Secretary.

(b) FILING OF RECORD.—Upon receiving a copy of a petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of section 1342(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(d) REVIEW.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) ORDER TO PAY PENALTY.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Secretary under this subpart.

(f) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

<< 12 USCA § 4584 >>

SEC. 1344. ENFORCEMENT AND JURISDICTION.

(a) ENFORCEMENT.—The Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 1341 or 1345. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subpart, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1341 or 1345, or to review, modify, suspend, terminate, or set aside any such notice or order.

<< 12 USCA § 4585 >>

SEC. 1345. CIVIL MONEY PENALTIES.

(a) AUTHORITY.—The Secretary may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed—

(1) to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed—

(1) for any failure described in subsection (a)(1), $25,000 for each day that the failure occurs; and

(2) for any failure described in subsection (a)(2) or (3), $10,000 for each day that the failure occurs.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

(A) shall provide for the Secretary to notify the enterprise in writing of the Secretary's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

(C) may provide for review by the Director for any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Secretary shall give consideration to such factors as the gravity of the offense, any history of prior offenses, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine, by regulation, to be appropriate.

(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Secretary imposing a civil money penalty under this section, after the order is no longer subject to review as provided by sections 1342 and 1343, the Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any civil money penalty under this section for any failure by an enterprise, during the 2–year period beginning on January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with an approved plan.

(g) DEPOSIT OF PENALTIES.—The Secretary shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

<< 12 USCA § 4586 >>

SEC. 1346. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Secretary shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Secretary or any modification to or termination thereof, unless the Secretary, in the Secretary's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Secretary under this subpart and that has become final in accordance with sections 1342 and 1343; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings with respect to any notice of charges issued by the Secretary shall be open to the public, unless the Secretary, in the Secretary's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Secretary makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial soundness of the enterprise, the Secretary may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Secretary may file any document or part thereof under seal in any hearing under this subpart if the Secretary determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Secretary shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Secretary under this subpart.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

<< 12 USCA § 4587 >>

SEC. 1347. NOTICE OF SERVICE.

Any service required or authorized to be made by the Secretary under this subpart may be made by registered mail or in such other manner reasonably calculated to give actual notice, as the Secretary may by regulation or otherwise provide.

<< 12 USCA § 4588 >>

SEC. 1348. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this subpart, the Secretary shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Secretary may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

<< 12 USCA § 4589 >>

SEC. 1349. REGULATIONS.

The Secretary shall issue any final regulations necessary to implement the provisions of this part (not including the provisions of sections 1332(d), 1333(d), and 1334(d), relating to transition housing goals) not later than the expiration of the 18–month period beginning on the date of the enactment of this Act. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

<< 12 USCA Ch. 46 >>

PART 3—MISCELLANEOUS PROVISIONS

SEC. 1351. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

<< 5 USCA § 5313 >>

(a) DIRECTOR AT LEVEL II OF EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item:

"Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.".

<< 5 USCA § 3132 >>

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development," after "Farm Credit Administration,".

<< 42 USCA § 3534 >>

SEC. 1352. PROHIBITION OF MERGER OF OFFICE.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office, with any function or program administered by the Secretary.".

<< 18 USCA § 1905 >>

SEC. 1353. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "any person acting on behalf of the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

<< 12 USCA § 4601 >>

SEC. 1354. REVIEW OF UNDERWRITING GUIDELINES.

(a) STUDY.—Each of the enterprises shall conduct a study to review the underwriting guidelines of the enterprise. The studies shall examine—

(1) the extent to which the underwriting guidelines prevent or inhibit the purchase or securitization of mortgages for housing located in mixed-use, urban center, and predominantly minority neighborhoods and for housing for low- and moderate-income families;

(2) the standards employed by private mortgage insurers and the extent to which such standards inhibit the purchase and securitization by the enterprises of mortgages described in paragraph (1); and

(3) the implications of implementing underwriting standards that—

(A) establish a downpayment requirement for mortgagors of 5 percent or less;

(B) allow the use of cash on hand as a source for downpayments; and

(C) approve borrowers who have a credit history of delinquencies if the borrower can demonstrate a satisfactory credit history for at least the 12–month period ending on the date of the application for the mortgage.

(b) REPORT.—Not later than the expiration of the 1–year period beginning on the date of the enactment of this Act, each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report regarding the study conducted by the enterprise under subsection (a). Each report shall include any recommendations of the enterprise for better meeting the housing needs of low- and moderate-income families.

<< 12 USCA § 4602 >>

SEC. 1355. STUDIES OF EFFECTS OF PRIVATIZATION OF FNMA AND FHLMC.

(a) IN GENERAL.—The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than the expiration of the 2–year period beginning on the date of the enactment of this Act, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) REQUIREMENTS.—Each study shall particularly examine the effects of such privatization on—

(1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;

(2) the cost of capital to the enterprises;

(3) housing affordability and availability and the cost of homeownership;

(4) the level of secondary mortgage market competition subsequently available in the private sector;

(5) whether increased amounts of capital would be necessary for the enterprises to continue operation;

(6) the secondary market for residential loans and the liquidity of such loans; and

(7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) INFORMATION.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) VIEWS OF THE FNMA AND FHLMC.—

(1) CONSIDERATION IN STUDIES.—In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) DIRECT REPORT.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may each report directly to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

<< 12 USCA § 4603 >>

SEC. 1356. TRANSITION.

Before the expiration of the period ending 18 months after the appointment of the Director under section 1312, any rules and regulations promulgated before the date of the enactment of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain in effect unless modified, terminated, superseded, or revoked by operation of law or in accordance with law. Such rules and regulations shall terminate, effective upon the expiration of such period.

<< 12 USCA Ch. 46 >>

Subtitle B—Required Capital Levels for Enterprises and Special Enforcement Powers

<< 12 USCA § 4611 >>

SEC. 1361. RISK–BASED CAPITAL LEVELS.

(a) RISK–BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test under this section for the enterprises. When applied to an enterprise, the risk-based capital test shall determine the amount of total capital for the enterprise that is sufficient for the enterprise to maintain positive capital during a 10–year period in which the following circumstances occur (in this section referred to as the "stress period"):

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for that industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years, experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10–year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10–year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10–year constant maturity Treasury yield in patterns and for durations that are reasonably related to historical experience and are judged reasonable by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10–year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under subsection (e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period.

(c) RISK–BASED CAPITAL LEVEL.—For purposes of this subtitle, the risk-based capital level for an enterprise shall be equal to the sum of the following amounts:

(1) CREDIT AND INTEREST RATE RISK.—The amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(2) MANAGEMENT AND OPERATIONS RISK.—To provide for management and operations risk, 30 percent of the amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(d) DEFINITIONS.—For purposes of this section:

(1) SEASONING.—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of similar quality, authority, and public availability that is regularly used by the Federal Government).

(2) TYPE OF MORTGAGE PRODUCT.—The term "type of mortgage product" means a classification of one or more mortgage products, as established by the Director, which have similar characteristics from each set of characteristics under the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) ISSUANCE.—The Director shall issue final regulations establishing the risk-based capital test under this section not later than the expiration of the 18–month period beginning on the date of the appointment of the Director. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code, and shall take effect upon issuance.

(2) CONTENTS.—The regulations under this subsection shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(3) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall provide copies of the statistical model or models used to implement the risk-based capital test under this section to the Secretary, the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Director of the Congressional Budget Office. The Director shall make copies of such model or models available for public acquisition and may charge a reasonable fee for such copies.

<< 12 USCA § 4612 >>

SEC. 1362. MINIMUM CAPITAL LEVELS.

(a) IN GENERAL.—For purposes of this subtitle, the minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.45 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

(b) TRANSITION.—Notwithstanding subsection (a), during the 18–month period beginning upon the date of the enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.40 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

<< 12 USCA § 4613 >>

SEC. 1363. CRITICAL CAPITAL LEVELS.

For purposes of this subtitle, the critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.25 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

<< 12 USCA § 4614 >>

SEC. 1364. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—For purposes of this subtitle, the Director shall classify the enterprises according to the following capital classifications:

(1) ADEQUATELY CAPITALIZED.—An enterprise shall be classified as adequately capitalized if the enterprise—

(A) maintains an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise under section 1361; and

(B) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise under section 1362.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; or

(B) the enterprise is otherwise classified as undercapitalized under subsection (b)(1) of this section.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as significantly undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise;

(ii) does not maintain an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; and

(iii) maintains an amount of core capital that is equal to or exceeds the critical capital level established for the enterprise under section 1363; or

(B) the enterprise is otherwise classified as significantly undercapitalized under subsection (b)(2) of this section or section 1365(b).

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as critically undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) does not maintain an amount of core capital that is equal to or exceeds the critical capital level for the enterprise; or

(B) is otherwise classified as critically undercapitalized under subsection (b)(3) of this section or section 1366(b)(5).

(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing that an enterprise is engaging in conduct not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly, the Director may classify the enterprise—

(1) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

(3) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.

(c) QUARTERLY DETERMINATION.—The Director shall determine the capital classification of the enterprises for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made during the 3–month period beginning on the appointment of the Director.

(d) IMPLEMENTATION.—Notwithstanding any other provision of this section, during the period beginning on the date of the enactment of this Act and ending upon the effective date of section 1365 (as provided in section 1365(c)), an enterprise shall be classified as adequately capitalized if the enterprise maintains an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise under section 1362.

<< 12 USCA § 4615 >>

SEC. 1365. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as undercapitalized shall, within the time period provided in section 1369C(b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—An enterprise that is classified as undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as significantly undercapitalized or critically undercapitalized.

(b) DISCRETIONARY RECLASSIFICATION FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED.—The Director may reclassify as significantly undercapitalized an enterprise that is classified as undercapitalized (and the enterprise shall be subject to the provisions of section 1366) if—

(1) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(2) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 1–year period beginning on the date of the effectiveness of the regulations issued under section 1361(e) establishing the risk-based capital test.

<< 12 USCA § 4616 >>

SEC. 1366. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY SUPERVISORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as significantly undercapitalized shall, within the time period under section 1369C(b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(A) PRIOR APPROVAL.—An enterprise that is classified as significantly undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as critically undercapitalized. An enterprise that is classified as significantly undercapitalized enterprise may not make any other capital distribution unless the Director approves the distribution.

(B) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by an enterprise classified as significantly undercapitalized only if the Director determines that the distribution (i) will enhance the ability of the enterprise to meet the risk-based capital level and the minimum capital level for the enterprise promptly, (ii) will contribute to the long-term financial safety and soundness of the enterprise, or (iii) is otherwise in the public interest.

(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions with respect to an enterprise that is classified as significantly undercapitalized:

(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the enterprise, including off-balance sheet obligations.

(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(3) ACQUISITION OF NEW CAPITAL.—Require the enterprise to acquire new capital in a form and amount determined by the Director.

(4) RESTRICTION OF ACTIVITIES.—Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(5) RECLASSIFICATION FROM SIGNIFICANTLY TO CRITICALLY UNDERCAPITALIZED.—The Director may reclassify as critically undercapitalized an enterprise that is classified as significantly undercapitalized (and the enterprise shall be subject to the provisions of section 1367) if—

(A) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(B) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(6) CONSERVATORSHIP.—Appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsection (a)(1) and (2)), but only if the Director determines—

(A) that the amount of core capital of the enterprise is less than the minimum capital level established for the enterprise under section 1362; and

(B) that alternative remedies available to the Director under this title are not satisfactory.

(c) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

<< 12 USCA § 4617 >>

SEC. 1367. APPOINTMENT OF CONSERVATORS FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) APPOINTMENT.—

(1) IN GENERAL.—Upon a determination and notice under section 1368(d) that an enterprise is critically undercapitalized and not later than 30 days after providing notice under section 1369(a)(3), the Director shall appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsections (a)(1) and (2)).

(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may determine not to appoint a conservator for an enterprise classified as critically undercapitalized, but only pursuant to a written finding by the Director, with the written concurrence of the Secretary of the Treasury, that—

(A) the appointment of a conservator would have serious adverse effects on economic conditions of national financial markets or on the financial stability of the housing finance market; and

(B) the public interest would be better served by taking some other enforcement action authorized under this title.

(b) AUTHORITY.—The Director shall have the authority to take any actions under sections 1365 and 1366 with respect to an enterprise under conservatorship.

(c) APPROVAL OF ACTIVITIES.—

(1) CONSERVATOR.—The conservator of any enterprise classified as critically undercapitalized may undertake an activity subject to the approval of the Secretary under section 1322 of this title only with the additional approval of the Director.

(2) NO CONSERVATOR.—If the Director determines under subsection (a)(2) not to appoint a conservator for an enterprise classified as critically undercapitalized, the provisions of section 1366 shall apply with respect to the enterprise.

(d) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

<< 12 USCA § 4618 >>

SEC. 1368. NOTICE OF CLASSIFICATION AND ENFORCEMENT ACTION.

(a) NOTICE.—Before taking any action referred to in subsection (b), the Director shall provide to the enterprise written notice of the proposed action, which states the reasons for the proposed action and the information on which the proposed action is based.

(b) APPLICABILITY.—The requirements of subsection (a) shall apply to the following actions:

(1) Classification or reclassification of an enterprise within a particular capital classification under section 1364.

(2) Any discretionary supervisory action pursuant to section 1365.

(3) Any discretionary supervisory action pursuant to section 1366 except a decision to appoint a conservator under section 1366(b)(6).

Notice of classification under paragraph (1) and notice of supervisory actions under paragraph (2) or (3) may be provided together in a single notice under subsection (a).

(c) RESPONSE PERIOD.—

(1) IN GENERAL.—During the 30–day period beginning on the date that an enterprise is provided notice under subsection (a) of a proposed action, the enterprise may submit to the Director any information relevant to the action that the enterprise considers appropriate for consideration by the Director in determining whether to take such action. The Director may, at the discretion of the Director, hold an informal administrative hearing to receive and discuss such information and the proposed determination.

(2) EXTENDED PERIOD.—The Director may extend the period under paragraph (1) for good cause for not more than 30 additional days.

(3) SHORTENED PERIOD.—The Director may shorten the period under paragraph (1) if the Director determines that the condition of the enterprise so requires or the enterprise consents.

(4) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the response period under this subsection (as extended or shortened) shall waive any right of the enterprise to comment on the proposed action of the Director.

(d) CONSIDERATION OF INFORMATION AND DETERMINATION.—After the expiration of the response period under subsection (c) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall determine whether to take the action proposed, taking into consideration any relevant information submitted by the enterprise during the response period. The Director shall provide written notice of a determination to take action and the reasons for such determination to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such notice shall respond to any information submitted during the response period.

(e) EFFECTIVE DATE OF ACTIONS.—An action referred to in subsection (b) shall take effect upon receipt by the enterprise of notice of the determination of the Director under subsection (d), unless otherwise provided in such notice.

<< 12 USCA § 4619 >>

SEC. 1369. APPOINTMENT OF CONSERVATORS.

(a) APPOINTMENT.—

(1) DISCRETIONARY AUTHORITY.—The Director may, after providing notice under paragraph (3), appoint a conservator for an enterprise upon a determination in writing—

(A) that alternative remedies available to the Director under this title are not satisfactory; and

(B) that—

(i) the enterprise is not likely to pay its obligations in the normal course of business;

(ii) the enterprise has incurred or is reasonably likely to incur losses that would deplete substantially all of its core capital and it is unlikely that the enterprise will replenish its core capital within a reasonable period;

(iii) the enterprise has concealed or is concealing books, papers, records, or assets of the enterprise that are material to the discharge of the Director's responsibilities under this subtitle, or has refused or is refusing to submit such books, papers, records, or information regarding the affairs of the enterprise for inspection to the Director upon request; or

(iv) the enterprise has willfully violated, or is willfully violating, a final cease-and-desist order under section 1371.

(2) CONSENT OF ENTERPRISE.—Notwithstanding paragraph (1), the Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of the members of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(3) NOTICE.—Upon making a determination under paragraph (1) of this subsection or under section 1366 or 1367 to appoint a conservator for an enterprise, or upon consent of the enterprise under paragraph (2) to such an appointment, the Director shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) that a conservator will be appointed for the enterprise;

(B) stating the reasons for the appointment of the conservator; and

(C) identifying the person or governmental agency that the Director intends to appoint as conservator.

(4) QUALIFICATIONS.—The conservator shall be—

(A) the Director or any other governmental agency; or

(B) any person that—

(i) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(b) JUDICIAL REVIEW.—

(1) TIMING AND JURISDICTION.—Except as provided in paragraph (2), an enterprise for which a conservator is appointed (pursuant to this section or section 1366 or 1367) may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only during the 20–day period beginning upon the appointment of the conservator.

(2) CONSENSUAL APPOINTMENTS.—Appointment of a conservator pursuant to consent of the enterprise under subsection (a)(2) shall not be subject to judicial review under this subsection.

(3) STANDARD OF REVIEW.—A decision of the Director to appoint a conservator may be set aside under this subsection only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(4) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subsection, no court may take any action regarding removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(c) REPLACEMENT.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the enterprise under subsection (b) to obtain judicial review of the decision of the Director to appoint a conservator.

(d) EXAMINATIONS.—The Director may examine and supervise any enterprise in conservatorship during the period in which the enterprise continues to operate as a going concern.

(e) TERMINATION.—

(1) DISCRETIONARY.—At any time the Director determines that termination of a conservatorship pursuant to an appointment under subsection (a) is in the public interest and may safely be accomplished, the Director may terminate the conservatorship and permit the enterprise to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(2) MANDATORY.—The Director shall terminate a conservatorship initiated pursuant to section 1366 or 1367 upon a determination by the Director that the enterprise has maintained an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise established under section 1362, and may by written order prescribe such terms, conditions, and limitations on the enterprise as the Director considers appropriate.

(3) TERMS.—Any terms, conditions, and limitations imposed by the Director upon termination of a conservatorship shall be enforceable and reviewable under the provisions of sections 1374 and 1375, to the same extent as any cease-and-desist order issued pursuant to subtitle C.

<< 12 USCA § 4620 >>

SEC. 1369A. POWERS OF CONSERVATORS.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprise under conservatorship and may operate the enterprise in the name of the enterprise, unless the Director provides otherwise.

(b) ADDITIONAL POWER.—A conservator may avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(c) LIMITATIONS BY DIRECTOR.—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in section 1369B, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the enterprise.

(d) ENFORCEMENT OF CONTRACTS.—

(1) IN GENERAL.—A conservator may enforce any contract described in paragraph (2), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(2) ENFORCEABLE CONTRACTS.—Any contract that is within a class of contracts shall be enforceable under paragraph (1) if the Director—

(A) determines that the continued enforceability of such class of contracts is necessary to achieve the purpose of the conservatorship; and

(B) specifically provides for the enforceability of such class of contracts in a regulation or order, issued for the purpose of this subsection, which describes such class.

(3) APPLICABILITY.—This subsection and any regulation or order issued under this subsection shall apply only to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

(e) STAYS.—

(1) IN GENERAL.—Not later than 45 days after appointment pursuant to section 1366, 1367, or 1369, or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any

judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period not exceeding 45 days after the request. Upon petition, the court shall grant such stay as to all parties.

(2) FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator appointed for an enterprise is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under paragraph (1) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(f) PAYMENT OF CREDITORS.—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(g) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(h) EXPENSES.—All expenses of a conservatorship pursuant to this section (including compensation pursuant to subsection (f)) shall be paid by the enterprise under conservatorship and shall be secured by a lien on the enterprise, which shall have priority over any other lien.

(i) CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE.—A conservator shall be subject to any laws and regulations relating to conflicts of interest and financial disclosure that apply to employees of the Office.

<< 12 USCA § 4621 >>

SEC. 1369B. LIABILITY PROTECTION FOR CONSERVATORS.

(a) FEDERAL AGENCIES AND EMPLOYEES.—In any case in which a conservator appointed under this subtitle is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or any form of intentional tortious conduct or criminal conduct.

(c) INDEMNIFICATION.—The Director, with the approval of the Attorney General, may indemnify the conservator on such terms as the Director considers appropriate.

<< 12 USCA § 4622 >>

SEC. 1369C. CAPITAL RESTORATION PLANS.

(a) CONTENTS.—Each capital restoration plan submitted under this subtitle shall set forth a feasible plan for restoring the core capital of the enterprise subject to the plan to an amount not less than the minimum capital level for the enterprise and for restoring the total capital of the enterprise to an amount not less than the risk-based capital level for the enterprise. Each capital restoration plan shall—

(1) specify the level of capital the enterprise will achieve and maintain;

(2) describe the actions that the enterprise will take to become classified as adequately capitalized;

(3) establish a schedule for completing the actions set forth in the plan;

(4) specify the types and levels of activities (including existing and new programs) in which the enterprise will engage during the term of the plan; and

(5) describe the actions that the enterprise will take to comply with any mandatory and discretionary requirements imposed under this subtitle.

(b) DEADLINES FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the enterprise is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines it necessary. Any extension of the deadline shall be in writing and for a time certain.

(c) APPROVAL.—The Director shall review each capital restoration plan submitted under this section and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 30–day period if the Director determines it necessary. The Director shall provide written notice to any enterprise submitting a plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(d) RESUBMISSION.—If the Director disapproves the initial capital restoration plan submitted by the enterprise, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

<< 12 USCA § 4623 >>

SEC. 1369D. JUDICIAL REVIEW OF DIRECTOR ACTION.

(a) JURISDICTION.—

(1) FILING OF PETITION.—An enterprise that is not classified as critically undercapitalized and is the subject of a classification under section 1364 or a discretionary supervisory action taken under this subtitle by the Director (other than action to appoint a conservator under section 1366 or 1367 or action under section 1369) may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the classification or action of the Director be modified, terminated, or set aside.

(2) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(b) SCOPE OF REVIEW.—The Court may modify, terminate, or set aside an action taken by the Director and reviewed by the Court pursuant to this section only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(c) UNAVAILABILITY OF STAY.—The commencement of proceedings for judicial review pursuant to this section shall not operate as a stay of any action taken by the Director. Pending judicial review of the action, the court shall not have jurisdiction to stay, enjoin, or otherwise delay any supervisory action taken by the Director with respect to an enterprise that is classified as significantly or critically undercapitalized or any action of the Director that results in the classification of an enterprise as significantly or critically undercapitalized.

(d) LIMITATION ON JURISDICTION.—Except as provided in this section, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this subtitle (other than appointment of a conservator under section 1366 or 1367 or action under section 1369) or to review, modify, suspend, terminate, or set aside such classification or action.

<< 12 USCA Ch. 46 >>

Subtitle C—Enforcement Provisions

<< 12 USCA § 4631 >>

SEC. 1371. CEASE–AND–DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE AGAINST ADEQUATELY CAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise that is classified (for purposes of subtitle B) as adequately capitalized or upon any executive officer or director of such an enterprise, if in the determination of the Director, the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct that threatens to cause a significant depletion of the core capital of the enterprise;

(2) any conduct or violation that may result in the issuance of an order described in subsection (d)(1); or

(3) any conduct that violates—

(A) any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act; or

(B) any written agreement entered into by the enterprise with the Director.

(b) GROUNDS FOR ISSUANCE AGAINST UNDERCAPITALIZED, SIGNIFICANTLY UNDERCAPITALIZED, AND CRITICALLY UNDERCAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise classified (for purposes of subtitle B) as undercapitalized, significantly undercapitalized, or critically undercapitalized, or any executive officer or director of any such enterprise, if in the determination of the Director the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct likely to result in a material depletion of the core capital of the enterprise, or

(2) any conduct or violation described in paragraph (2) or (3) of subsection (a),

except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

(c) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges under this section shall contain a statement of the facts constituting the alleged conduct or violation and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct or violation should issue.

(2) ISSUANCE OF ORDER.—If the Director finds on the record made at such hearing that any conduct or violation specified in the notice of charges has been established (or the enterprise consents pursuant to section 1373(a)(4)), the Director may issue and serve upon the enterprise, executive officer, or director an order requiring such party to cease and desist from any such conduct or violation and to take affirmative action to correct or remedy the conditions resulting from any such conduct or violation.

(d) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.—The authority under this section and section 1372 to issue any order requiring an enterprise, executive officer, or director to take affirmative action to correct or remedy any condition resulting from any conduct or violation with respect to which such order is issued includes the authority—

(1) to require an executive officer or a director to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 1376(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the enterprise to dispose of any asset involved;

(5) to require the enterprise to rescind agreements or contracts;

(6) to require the enterprise to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(7) to require the enterprise to take such other action as the Director determines appropriate.

(e) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 1372 includes the authority to place limitations on the activities or functions of the enterprise or any executive officer or director of the enterprise.

(f) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30–day period beginning on the service of the order upon the enterprise, executive officer, or director concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as

provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subtitle.

<< 12 USCA § 4632 >>

SEC. 1372. TEMPORARY CEASE–AND–DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE AND SCOPE.—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, executive officer, or director pursuant to section 1371(a) or (b), or the continuation thereof, is likely—

(1) to cause insolvency,

(2) to cause a significant depletion of the core capital of the enterprise, or

(3) otherwise to cause irreparable harm to the enterprise,

prior to the completion of the proceedings conducted pursuant to section 1371(c), the Director may issue a temporary order requiring the enterprise, executive officer, or director to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, executive officer, or director and, unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to section 1371.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under section 1371(a) or (b) specifies on the basis of particular facts and circumstances that the books and records of the enterprise served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore the books or records to a complete and accurate state.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 1371 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the books and records of the enterprise are accurate and reflect the financial condition of the enterprise.

(d) JUDICIAL REVIEW.—An enterprise, executive officer, or director that has been served with a temporary order pursuant to this section may apply to the United States District Court for the District of Columbia within 10 days after such service for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, executive officer, or director under section 1371(a) or (b). Such court shall have jurisdiction to issue such injunction.

(e) ENFORCEMENT BY ATTORNEY GENERAL.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order or may, under the direction and control of the Attorney General, bring such an action. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

<< 12 USCA § 4633 >>

SEC. 1373. HEARINGS.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1371 or 1376(c) shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1371 or determination to impose a penalty under section 1376, unless an earlier or a later date is set by the hearing officer at the request of the party served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the party served fails to appear at the hearing through a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the parties have been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 1374. Unless such a petition for review is timely filed as provided in section 1374, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

<< 12 USCA § 4634 >>

SEC. 1374. JUDICIAL REVIEW.

(a) COMMENCEMENT.—Any party to a proceeding under section 1371 or 1376 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(b) FILING OF RECORD.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 1373(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) REVIEW.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) ORDER TO PAY PENALTY.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this subtitle.

(f) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

<< 12 USCA § 4635 >>

SEC. 1375. ENFORCEMENT AND JURISDICTION.

(a) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this subtitle

or subtitle B or may, under the direction and control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subtitle and sections 1369 and 1369D, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1371, 1372, or 1376, or subtitle B, or to review, modify, suspend, terminate, or set aside any such notice or order.

<< 12 USCA § 4636 >>

SEC. 1376. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—The Director may impose a civil money penalty in accordance with this section on any enterprise, or any executive officer or director of any enterprise, that—

(1) violates any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

(2) violates any final or temporary order issued pursuant to section 1365, 1366, 1371, or 1372;

(3) violates any written agreement between the enterprise and the Director; or

(4) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) AMOUNT OF PENALTY.—

(1) FIRST TIER.—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (3) of subsection (a). The amount of a penalty under this paragraph shall not exceed $5,000 for each day that a violation continues.

(2) SECOND TIER.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $10,000, or on an enterprise in an amount not to exceed $25,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct—

(A) is part of a pattern of misconduct; or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) THIRD TIER.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $100,000, or on an enterprise in an amount not to exceed $1,000,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under subsections (a) and (b). Such standards and procedures—

(A) shall provide for the Director to notify the enterprise in writing of the Director's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise, executive officer, or director has been given an opportunity for a hearing on the record pursuant to section 1373; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations, the effect of the penalty on the safety and soundness of the enterprise, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation to be appropriate.

(3) REVIEW OF IMPOSITION OF PENALTY.—The order of the Director imposing a penalty under this section shall not be subject to review, except as provided in section 1374.

(d) ACTION TO COLLECT PENALTY.—If an enterprise, executive officer, or director fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may request the Attorney General of the United States to bring an action in

the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, executive officer, or director and such other relief as may be available, or may, under the direction and control of the Attorney General, bring such an action. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order of the Director imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY DIRECTOR.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) AVAILABILITY OF OTHER REMEDIES.—Any civil money penalty under this section shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(g) PROHIBITION OF REIMBURSEMENT OR INDEMNIFICATION.—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(h) DEPOSIT OF PENALTIES.—The Director shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

(i) APPLICABILITY.—A penalty under this section may be imposed only for conduct or violations under subsection (a) occurring after the date of the enactment of this Act.

<< 12 USCA § 4637 >>

SEC. 1377. NOTICE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the 2–year period beginning on the date such director or executive officer ceases to be associated with the enterprise.

<< 12 USCA § 4638 >>

SEC. 1378. PRIVATE RIGHTS OF ACTION.

This title and the amendments made by this title shall not create any private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impair any existing private right of action under other applicable law.

<< 12 USCA § 4639 >>

SEC. 1379. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this subtitle and that has become final in accordance with sections 1373 and 1374; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this subtitle or any other law.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

<< 12 USCA § 4640 >>

SEC. 1379A. NOTICE OF SERVICE.

Any service required or authorized to be made by the Director under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

<< 12 USCA § 4641 >>

SEC. 1379B. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this subtitle, the Director shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section or may, under the direction and control of the Attorney General, bring such an action. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

Subtitle D—Amendments to Charter Acts of Enterprises

SEC. 1381. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

<< 12 USCA § 1716 >>

(a) PURPOSES.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by striking “home” each place it appears and inserting “residential”;

(2) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: “(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)”; and

(B) by striking “and” at the end;

(3) by redesignating paragraph (4) as paragraph (5);

(4) by inserting after paragraph (3) the following new paragraph:

"(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and".

<< 12 USCA § 1717 >>

(b) HIGH COST AREAS.—The last sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(c) SECRETARY'S APPROVAL AUTHORITY.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2) is amended—

(1) in the first sentence of paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,";

(2) in the first sentence of paragraph (3), by striking ", with the approval of the Secretary of Housing and Urban Development,";

(3) in the first sentence of paragraph (4), by striking ", with the approval of the Secretary of Housing and Urban Development,"; and

(4) by adding at the end the following new paragraph:

"(6) The corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.".

<< 12 USCA § 1718 >>

(d) CAPITALIZATION.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by inserting after the period at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsections (b) and (c) and inserting the following new subsections:

"(b)(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

"(c)(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the corporation established under section 1361 of such Act or that would decrease the core capital of the corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.";

(3) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions,"; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation"; and

(4) by redesignating subsection (f) (as so amended) as subsection (d).

<< 12 USCA § 1719 >>

(e) RATIO OF OBLIGATIONS.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(1) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(2) in subsection (e), by striking the fourth sentence.

(f) STATEMENT IN SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by inserting after the period at the end the following new sentence: "The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.".

(g) ASSESSMENTS FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting before the first comma the following: "of this Act and assessments pursuant to section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(h) BOARD OF DIRECTORS.—

<< 12 USCA § 1723 >>

(1) IN GENERAL.—The second sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households".

<< 12 USCA § 1723 NOTE >>

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the board of directors of the Federal National Mortgage Association that occurs after the date of the enactment of this Act.

<< 12 USCA § 1723 >>

(i) REMOVAL AUTHORITY OF PRESIDENT.—The third sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting "appointed" after "any such".

<< 12 USCA § 1723a >>

(j) COMPENSATION.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C), of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the comparability of the compensation policies of the corporation with the compensation policies

of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and (iii) the comparability of the corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) Notwithstanding the first sentence of paragraph (2), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(k) GENERAL REGULATORY AUTHORITY.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by striking subsections (h) and (i).

(l) GAO AUDITS.—Section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended —

(1) by inserting "(1)" after "(j)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (l), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(m) FINANCIAL REPORTS TO DIRECTOR.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(k)(1) The corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the corporation; and

"(ii) the compliance of the corporation with designated safety and soundness laws.

"(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(n) AUDITS OF FINANCIAL STATEMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (k) (as added by subsection (m) of this section) the following new subsection:

"(l)(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).".

(o) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (l) (as added by subsection (n) of this section) the following new subsection:

"(m)(1) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation.".

(p) REPORT ON HOUSING ACTIVITIES.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (m) (as added by subsection (o) of this section) the following new subsection:

"(n)(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (m)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston–Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

"(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(q) HOUSING ADVISORY COUNCIL.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (n) (as added by subsection (p) of this section) the following new subsection:

"(o)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

<< 12 USCA § 1723c >>

(r) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(s) TECHNICAL AMENDMENTS.—

<< 12 USCA § 1717 >>

(1) Section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) is amended—

(A) in paragraph (2)—

(i) in the first sentence following subparagraph (F), by striking "him" and inserting "the trustor"; and

(ii) in the last sentence, by striking "his" each place it appears and inserting "the trustor's"; and

(B) in paragraph (3), by striking "he" each place it appears and inserting "the trustor".

<< 12 USCA § 1719 >>

(2) Section 304(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(c)) is amended—
(A) by striking "his" each place it appears and inserting "the Secretary's"; and
(B) in the fourth sentence—
(i) by striking "he" and inserting "the Secretary"; and
(ii) by striking "him" and inserting "the Secretary".

<< 12 USCA § 1723a >>

(3) Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended—
(A) in subsection (d)(2)—
(i) in the third sentence, by striking "his employment" each place it appears and inserting "the employment of such officer or employee"; and
(ii) in the last sentence, by striking "his basic pay" and inserting "the basic pay of such person"; and
(B) in subsection (e), by striking "he or it" and inserting "the individual, association, partnership, or corporation".

SEC. 1382. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

<< 12 USCA § 1451 NOTE >>

(a) PURPOSES.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—
(1) by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential";
(2) by striking "and" at the end of paragraph (2);
(3) in paragraph (3)—
(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and
(B) by striking the period at the end and inserting "; and"; and
(4) by adding at the end the following new paragraph:
"(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.".

<< 12 USCA § 1451 >>

(b) DEFINITIONS.—The third sentence of section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by striking "made" and all that follows through "305(a)(1)" and inserting "purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".
(c) BOARD OF DIRECTORS.—

<< 12 USCA § 1452 >>

(1) IN GENERAL.—The second sentence of section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended—
(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households".

<< 12 USCA § 1452 NOTE >>

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occurs after the date of the enactment of this Act.

<< 12 USCA § 1452 >>

(d) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: ", except that any appointed member may be removed from office by the President for good cause".

(e) GENERAL REGULATORY AUTHORITY.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the Corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors.

"(2) The Corporation may not make any capital distribution that would decrease the total capital of the Corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Corporation established under section 1361 of such Act or that would decrease the core capital of the Corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the Corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.".

(f) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (including publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(h)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses, (B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and (C) the comparability of the Corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(2) Notwithstanding the first sentence of subsection (c), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or

change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(g) POWERS OF CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second sentence.

(h) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

<< 12 USCA § 1453 >>

(i) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) by striking subsections (b), (c), and (d);

(2) in subsection (a)(1), by striking "(1) The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation."; and

(3) in subsection (a)(2)—

(A) in the first sentence, by striking "nonvoting common stock and the";

(B) by striking the last sentence; and

(C) by striking the paragraph designation and inserting "(b)".

<< 12 USCA § 1454 >>

(j) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence and inserting a period; and

(2) in the second sentence, by striking ", and the servicing" and all that follows through the end of the sentence and inserting a period.

(k) HIGH COST AREAS.—The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(l) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by striking subsection (c).

(m) PRIOR APPROVAL OF SECRETARY FOR NEW PROGRAMS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by inserting after subsection (b) the following new subsection:

"(c) The Corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.".

<< 12 USCA § 1455 >>

(n) OBLIGATIONS AND SECURITIES AND ASSESSMENTS FOR OFFICE.—Section 306 of the Federal Home Loan Mortgage Corporation (12 U.S.C. 1455) is amended—

(1) in subsection (h)—

(A) by inserting "(1)" after "(h)"; and

(B) by adding at the end the following new paragraph:

"(2) The Corporation shall insert appropriate language in all of the obligations and securities of the Corporation issued under this section and section 305 clearly indicating that such obligations and securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation."; and

(2) in the first sentence of subsection (i), by striking "section 303(c) or 306(c)" and inserting the following: "sections 303(c) and 1316(c) of this Act and assessments pursuant to section 106 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

<< 12 USCA § 1456 >>

(o) GAO AUDITS.—Section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under subsection (d), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(p) FINANCIAL REPORTS TO DIRECTOR.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding at the end the following new subsection:

"(c)(1) The Corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the Corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the Corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the Corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the Corporation; and

"(ii) the compliance of the Corporation with designated safety and soundness laws.

"(3) The Corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(q) AUDITS OF FINANCIAL STATEMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (c) (as added by subsection (p) of this section) the following new subsection:

"(d)(1) The Corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (c)(2)(B).".

(r) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (d) (as added by subsection (q) of this section) the following new subsection:

"(e)(1) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the Corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the Corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the Corporation.".

(s) REPORT ON HOUSING ACTIVITIES.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (e) (as added by subsection (r) of this section) the following new subsection:

"(f)(1) The Corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the Corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the Corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (e)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the Corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the Corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the Corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the Corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the Corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston–Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The Corporation shall make each report under this subsection available to the public at the principal and regional offices of the Corporation.

"(B) Before making a report under this subsection available to the public, the Corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(t) HOUSING ADVISORY COUNCIL.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (f) (as added by subsection (s) of this section) the following new subsection:

"(g)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation shall appoint an Affordable Housing Advisory Council to advise the Corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

<< 12 USCA § 1451 NOTE >>

SEC. 1383. IMPLEMENTATION.

(a) IN GENERAL.—The Secretary of Housing and Urban Development and the Director, as appropriate, shall issue any final regulations necessary to implement the amendments made by this subtitle not later than the expiration of the 18–month period beginning on the date of the enactment of this Act.

(b) NOTICE AND COMMENT.—The regulations under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

Subtitle E—Regulation of Federal Home Loan Bank System

<< 12 USCA § 1422a >>

SEC. 1391. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

SEC. 1392. ADVANCES UNDER FEDERAL HOME LOAN BANK ACT.

<< 12 USCA § 1430 >>

(a) ADVANCES TO NONQUALIFIED THRIFT LENDER MEMBERS.—Section 10(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking the second sentence and inserting the following new sentence: "The aggregate amount of the advances by the Federal Home Loan Bank System to members that are not qualified thrift lenders shall not exceed 30 percent of the total advances of the Federal Home Loan Bank System.".

<< 12 USCA § 1430b >>

(b) EXCEPTION TO REQUIREMENTS FOR ADVANCES.—Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following new subsection designation and heading: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.".

SEC. 1393. STUDIES REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study analyzing and making appropriate recommendations with respect to the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The relationship between the capital standards for the Federal Home Loan Bank System and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The relationship between the capital standards for federally insured depository institutions and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) The advantages and disadvantages of expanding credit products and services for member institutions of the Federal Home Loan Bank System, including a determination of the feasibility of Federal Home Loan Banks (A) purchasing housing-related assets from member institutions, (B) providing credit enhancements and other products to members in addition to making advances, and (C) making direct loans for housing construction.

(5) The advantages and disadvantages of expanding eligible collateral for advances to member institutions of the Federal Home Loan Bank System by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the System in housing finance.

(7) The advantages and disadvantages of measures to increase membership in, and increase the profitability of, the System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the overall advance limit imposed on the Federal Home Loan Bank System to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs of the System.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs and community support programs under the Federal Home Loan Bank System.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this title, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act.

(b) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers and entities differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section, the term “housing-related assets” means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 1394. REPORT OF FEDERAL HOME LOAN BANK MEMBERS.

(a) IN GENERAL.—The Federal Home Loan Banks shall establish a committee to be known as the Study Committee. The Study Committee shall be comprised of 24 members, of whom 2 shall be elected by the Board of Directors of each Federal Home Loan Bank from among officers or directors of stockholder institutions of the Federal Home Loan Bank. Each Federal Home Loan Bank shall elect members to the Study Committee not later than 45 days after the date of the enactment of this Act.

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics referred to in section 1391(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 6 months after the date of the enactment of this Act, the Study Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 1395. REPORTS REGARDING CONSOLIDATION OF FEDERAL HOME LOAN BANK SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report of the directors' evaluation of the costs and benefits of consolidating the Federal Home Loan Bank System.

TITLE XIV —HOUSING PROGRAMS UNDER STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Subtitle A—Housing Assistance

<< 42 USCA § 11301 NOTE >>

SEC. 1401. SHORT TITLE.

This title may be cited as the “Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992”.

SEC. 1402. EMERGENCY SHELTER GRANTS PROGRAM.

<< 42 USCA § 11377 >>

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $138,000,000 for fiscal year 1993 and $143,796,000 for fiscal year 1994.".

<< 42 USCA § 11375 >>

(b) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) at the end of paragraph (1), by striking the period and inserting a semicolon;

(2) at the end of paragraph (3), by striking "and";

(3) in paragraph (4)—

(A) by inserting "it will" after "State,"; and

(B) by striking "and" at the end;

(4) in paragraph (5)—

(A) by inserting "it will" before "develop"; and

(B) by striking the period at the end and inserting a semicolon;

(5) in the paragraph that follows paragraph (5) (as added by section 832(h)(3) of the Cranston–Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4362))—

(A) by redesignating the paragraph as paragraph (6); and

(B) by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.".

(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding at the end the following new subsection:

"(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.".

(d) TERMINATION OF ASSISTANCE.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.".

<< 42 USCA § 11374 >>

(e) ELIGIBILITY OF STAFF COSTS.—Section 414(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(3)) is amended—

(1) by striking "(other than staff)"; and

(2) by inserting before the period at the end the following:
", except that not more than 10 percent of the amount of any grant received under this subtitle may be used for costs of staff".

SEC. 1403. SUPPORTIVE HOUSING PROGRAM.

<< 42 USCA §§ 11381, 11382, 11383, 11384, 11385, 11386, 11387, 11388, 11391, 11392, 11393, 11394 >>

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking subtitles C and D and inserting the following new subtitle:

<< 42 USCA Ch. 119 >>

"Subtitle C—Supportive Housing Program

<< 42 USCA § 11381 >>

"SEC. 421. PURPOSE.

"The purpose of the program under this subtitle is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible.

<< 42 USCA § 11382 >>

"SEC. 422. DEFINITIONS.

"For purposes of this subtitle:
"(1) The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this subtitle and submits an application under section 426(a).
"(2) The term 'disability' means—
"(A) a disability as defined in section 223 of the Social Security Act,
"(B) to be determined to have, pursuant to regulations issued by the Secretary, a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes an individual's ability to live independently, and (iii) of such a nature that such ability could be improved by more suitable housing conditions,
"(C) a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act, or
"(D) the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

Subparagraph (D) shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).
"(3) The term 'Indian tribe' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.
"(4) The term 'metropolitan city' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.
"(5) The term 'operating costs' means expenses incurred by a recipient operating supportive housing under this subtitle with respect to—
"(A) the administration, maintenance, repair, and security of such housing;
"(B) utilities, fuel, furnishings, and equipment for such housing; and
"(C) the conducting of the assessment under section 426(c)(2).
"(6) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

"(7) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(8) The term 'project' means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle, or supportive services.

"(9) The term 'recipient' means any governmental or nonprofit entity that receives assistance under this subtitle.

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) The term 'supportive housing' means a project that meets the requirements of section 424.

"(13) The term 'supportive services' means services under section 425.

"(14) The term 'urban county' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

<< 42 USCA § 11383 >>

"SEC. 423. ELIGIBLE ACTIVITIES.

"(a) IN GENERAL.—The Secretary may provide any project with one or more of the following types of assistance under this subtitle:

"(1) ACQUISITION AND REHABILITATION.—A grant, in an amount not to exceed $200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services; except that the Secretary may increase the dollar limitation under this sentence to not more than $400,000 for areas that the Secretary finds have high acquisition and rehabilitation costs. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

"(2) NEW CONSTRUCTION.—A grant, in an amount not to exceed $400,000, for new construction of a structure to provide supportive housing.

"(3) LEASING.—A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this subtitle.

"(4) OPERATING COSTS.—Annual payments for operating costs of housing assisted under this subtitle, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the housing for purposes of this subtitle.

"(5) SUPPORTIVE SERVICES.—A grant for costs of supportive services provided to homeless individuals. Any recipient, including program recipients under title IV of this Act before the date of the enactment of the Housing and Community Development Act of 1992, may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

"(6) TECHNICAL ASSISTANCE.—Technical assistance in carrying out the purposes of this subtitle.

"(b) USE RESTRICTIONS.—

"(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—Projects assisted under subsection (a)(1) or (2) shall be operated for not less than 20 years for the purpose specified in the application.

"(2) OTHER ASSISTANCE.—Projects assisted under subsection (a)(3), (4), (5), or (6) (but not under subsection (a)(1) or (2)) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

"(3) CONVERSION.—If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

"(c) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

"(1) REPAYMENT.—The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a)(1) or (2) if the project ceases to be used as supportive housing within 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

"(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a)(1) or (2) occurring before the expiration of the 20–year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

"(3) EXCEPTION.—A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this subtitle.

<< 42 USCA § 11384 >>

"SEC. 424. SUPPORTIVE HOUSING.

"(a) IN GENERAL.—Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this subtitle if—

"(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

"(2) the housing—

"(A) is transitional housing;

"(B) is permanent housing for homeless persons with disabilities; or

"(C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

"(b) TRANSITIONAL HOUSING.—For purposes of this section, the term 'transitional housing' means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary. The Secretary may deny assistance for housing based on a violation of this subsection only if the Secretary determines that a substantial number of homeless individuals or families have remained in the housing longer than such period.

"(c) PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.—For purposes of this section, the term 'permanent housing for homeless persons with disabilities' means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than—

"(1) 8 such persons in a single structure or contiguous structures;

"(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

"(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

"(d) SINGLE ROOM OCCUPANCY DWELLINGS.—A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

<< 42 USCA § 11385 >>

"SEC. 425. SUPPORTIVE SERVICES.

"(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

"(b) REQUIREMENTS.—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

"(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

"(d) PROVISION OF SERVICES.—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

"(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

"(1) APPROVAL.—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

"(2) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

<< 42 USCA § 11386 >>

"SEC. 426. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) FORM AND PROCEDURE.—Applications for assistance under this subtitle shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

"(2) CONTENTS.—The Secretary shall require that applications contain at a minimum—

"(A) a description of the proposed project, including the activities to be undertaken;

"(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this subtitle;

"(C) a description of the public and private resources that are expected to be made available for the project;

"(D) in the case of projects assisted under section 423(a)(1) or (2), assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

"(E) in the case of projects assisted under this title that do not receive assistance under such sections, annual assurances during the period specified in the application that the project will be operated for the purpose specified in the application for such period;

"(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

"(G) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(3) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12–month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

"(b) SELECTION CRITERIA.—The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this subtitle by a national competition based on criteria established by the Secretary, which shall include—

"(1) the ability of the applicant to develop and operate a project;

"(2) the innovative quality of the proposal in providing a project;

"(3) the need for the type of project proposed by the applicant in the area to be served;

"(4) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources;

"(5) the cost-effectiveness of the proposed project;

"(6) the extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

"(7) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

"(1) to operate the proposed project in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

"(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

"(4) to monitor and report to the Secretary on the progress of the project;

"(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

"(6) to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle and in providing supportive services for the project; and

"(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

"(d) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

"(e) MATCHING FUNDING.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from sources other than this subtitle.

"(f) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

"(i) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

<< 42 USCA § 11387 >>

"SEC. 427. REGULATIONS.

"Not later than the expiration of the 90–day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60–day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

<< 42 USCA § 11388 >>

"SEC. 428. REPORTS TO CONGRESS.

"The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

<< 42 USCA § 11389 >>

"SEC. 429. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $204,000,000 for fiscal year 1993 and $212,568,000 for fiscal year 1994.

"(b) SET–ASIDES.—Of any amounts appropriated to carry out this subtitle—

"(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

"(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

"(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 423(a)(5) and 425, not provided in conjunction with supportive housing.

"(c) REALLOCATIONS.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

<< 42 USCA § 11381 NOTE >>

(b) TRANSITION.—Notwithstanding the amendment made by subsection (a), before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless Assistance Act (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of the Stewart B. McKinney Homeless Assistance Act, as in effect immediately before the enactment of this Act. Any grants made before such effective date shall be subject to the provisions of such subtitles.

SEC. 1404. SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after subtitle C (as added by section 1003(a) of this Act) the following new subtitle:

<< 42 USCA Ch. 119 >>

"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program

<< 42 USCA § 11391 >>

"SEC. 431. ESTABLISHMENT OF DEMONSTRATION.

"(a) IN GENERAL.—The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as safe havens, to homeless persons who, at the time, are unwilling or unable to participate in mental health treatment programs or to receive other supportive services.

"(b) PURPOSES.—The demonstration program carried out under this subtitle shall demonstrate—

"(1) whether and on what basis eligible persons choose to reside in safe havens;

"(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

"(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

"(4) the various ways in which safe havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

<< 42 USCA § 11392 >>

"SEC. 432. DEFINITIONS.

"For purposes of this subtitle:

"(1) APPLICANT.—The term 'applicant' means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

"(2) ELIGIBLE PERSON.—The term 'eligible person' means an individual who—

"(A) is seriously mentally ill and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

"(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

Such term does not include a person whose sole impairment is substance abuse.

"(3) FACILITY.—The term 'facility' means a structure or a clearly identifiable portion of a structure that is assisted under this subtitle.

"(4) LOW–DEMAND SERVICES AND REFERRALS.—The term 'low-demand services and referrals' means the provision of health care, mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner,

which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

"(5) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(6) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a recipient operating a safe haven under this subtitle with respect to—

"(A) the operation of the facility, including the cost of 24–hour management, and maintenance, repair, and security;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

"(7) RECIPIENT.—The term 'recipient' means an applicant that receives assistance under this subtitle.

"(8) SAFE HAVEN.—The term 'safe haven' means a facility—

"(A) that provides 24–hour residence for eligible persons who may reside for an unspecified duration;

"(B) that provides private or semiprivate accommodations;

"(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

"(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

"(E) in which overnight occupancy is limited to no more than 25 persons.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) SERIOUSLY MENTALLY ILL.—The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) STATE.—The term 'Sta e' means each of the several States, the District of Columbia the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

<< 42 USCA § 11393 >>

"SEC. 433. PROGRAM ASSISTANCE.

"(a) IN GENERAL.—

"(1) ELIGIBLE ACTIVITIES.—The Secretary may provide assistance with respect to a program under this subtitle for the following activities:

"(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

"(B) The leasing of an existing structure for use in providing a safe haven.

"(C) To cover the operating costs of a safe haven.

"(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

"(E) Outreach activities designed to inform eligible persons about and attract them to a safe haven program.

"(F) The provision of low-demand services and referrals for residents of a safe haven, except that grants under this subtitle may not be used to cover more than 50 percent of the cost of such services and referrals.

"(G) Other activities that further the purposes of this subtitle, including the modification of an existing facility to use a portion of the facility to provide with a safe haven.

"(2) PERIOD OF ASSISTANCE.—Assistance may be provided to any safe haven program for activities under subparagraphs (B) through (F) of paragraph (1) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

"(A) the determination of the Secretary that the performance of the recipient under this subtitle is satisfactory; and

"(B) the availability of appropriations for such purpose.

"(3) LIMIT ON AMOUNT.—The total amount of assistance provided to any recipient under this subsection may not exceed $400,000 in any 5–year period.

"(b) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall supplement a grant provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) CALCULATION OF AMOUNTS.—In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

<< 42 USCA § 11394 >>

"SEC. 434. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum—

"(1) a description of the proposed facility;

"(2) a description of the number and characteristics of the eligible persons expected to occupy the safe haven;

"(3) a plan for identifying and selecting eligible persons to participate;

"(4) a program plan, containing a description of the method—

"(A) of operation of the facility, including staffing plans and facility rules;

"(B) by which the applicant will secure supportive services for residents of the safe haven;

"(C) by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

"(D) by which access to supportive services will be secured for residents willing to use them;

"(E) by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under subtitle F, will be sought after residents are stabilized; and

"(F) by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

"(5) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) an estimate of program costs;

"(7) a description of the resources that are expected to be made available in accordance with section 433(b);

"(8) assurances satisfactory to the Secretary that the facility will have 24–hour, on-site management, if practicable;

"(9) assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this subtitle;

"(10) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston–Gonzalez National Affordable Housing Act for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

"(11) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

"(12) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the safe haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the safe haven; and

"(13) such other information as the Secretary may require.

"(b) SITE CONTROL.—The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this subtitle.

If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this subtitle.

"(c) SELECTION CRITERIA.—The Secretary shall establish selection criteria for selecting applicants to receive assistance under this subtitle pursuant to a national competition, which shall include—

"(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

"(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

"(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

"(4) the cost-effectiveness of the proposed program;

"(5) providing for geographical diversity among applicants selected to receive assistance;

"(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

"(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

"(d) REQUIRED AGREEMENTS.—The Secretary may not provide assistance under this subtitle for any safe haven program unless the applicant agrees—

"(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this subtitle;

"(2) to ensure that the facility meets any standards of habitability established by the Secretary;

"(3) to provide low-demand services and referrals for the residents of the safe haven;

"(4) to prohibit the use of illegal drugs and alcohol in the facility;

"(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) not to establish limitations on the duration of residency;

"(7) not to require participation in low-demand services and referrals as a condition of occupancy;

"(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

"(9) to the maximum extent practicable, to involve eligible persons, through employment, volunteer services, or otherwise, in renovating, maintaining, and operating facilities assisted under this subtitle and in providing services assisted under this subtitle;

"(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

"(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

The Secretary may waive the applicability of the requirement under paragraph (10) for an applicant that is unable to meet such requirement, if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

<< 42 USCA § 11395 >>

"SEC. 435. OCCUPANCY CHARGE.

"Each eligible person who resides in a facility assisted under this subtitle shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 3(a) of the United States Housing Act of 1937. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

<< 42 USCA § 11396 >>

"SEC. 436. TERMINATION OF ASSISTANCE.

"If an eligible person who resides in a safe haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the safe haven (as set forth in the application submitted under this subtitle), the recipient may terminate such residency or assistance in accordance with a formal process established by the rules for the safe haven, which may include a hearing.

<< 42 USCA § 11397 >>

"SEC. 437. EVALUATION AND REPORT.

"The Secretary shall conduct an evaluation of the safe haven demonstration program under this subtitle and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

<< 42 USCA § 11398 >>

"SEC. 438. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this subtitle.

"(b) CONSULTATION.—In establishing requirements to carry out the provisions of this subtitle, and in considering applications under this subtitle, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

"(c) ELIGIBILITY FOR SSI AND MEDICAID.—

"(1) SUPPLEMENTAL SECURITY INCOME.—All provisions of the Supplemental Security Income program under title XVI of the Social Security Act and of State programs in supplementation thereof shall apply to participants in the safe havens demonstration program under this subtitle, except that no individual living in a safe haven shall—

"(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of such Act); or

"(B) have benefits under such title XVI reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of such Act), to the extent such support and maintenance is received as a result of participation in the safe havens demonstration program.

"(2) MEDICAID.—A safe haven shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act, or any other inpatient facility, for purposes of the program under title XIX of such Act, and individuals shall not be denied eligibility for medicaid because of residency in such residence.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $62,000,000 for fiscal year 1993 and $64,604,000 for fiscal year 1994.".

SEC. 1405. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

<< 42 USCA § 11401 >>

(a) BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $105,000,000 on or after October 1, 1992, and by $109,410,000 on or after October 1, 1993.".

(b) ELIGIBILITY OF NONPROFIT ORGANIZATIONS.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary";

(2) in subsection (f), by striking "public housing agency" each place it appears and inserting "approved applicant"; and

(3) by adding at the end the following new subsection:

"(j) DEFINITIONS.—For purposes of this section—

"(1) the term 'applicant' means a public housing agency, Indian housing authority, or private nonprofit organization that applies for assistance under this section; and

"(2) the term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.".

(c) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 441(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(c)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (4) the following new paragraph:

"(5) assurances satisfactory to the Secretary that the applicant, to the maximum extent practicable, will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.".

(d) PARTICIPATION OF HOMELESS INDIVIDUALS AND TERMINATION OF ASSISTANCE.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding after subsection (g) the following new subsections:

"(h) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each approved applicant receiving assistance under this section that is not a public housing agency or Indian housing authority to provide for the participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section. The Secretary may grant waivers to approved applicants unable to meet the requirements under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(i) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.".

(e) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 180–day period beginning on the date of the enactment of this Act, describing the extent to which amounts appropriated to provide assistance under section 441 of the Stewart B. McKinney Homeless Assistance Act since the enactment of such section have been obligated and expended.

SEC. 1406. SHELTER PLUS CARE PROGRAM.

<< 42 USCA § 11403h >>

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) IN GENERAL.—For purposes of the housing programs under this subtitle, there are authorized to be appropriated $266,550,000 for fiscal year 1993 and $277,745,100 for fiscal year 1994. Of any amount appropriated in any fiscal year to carry out this subtitle—

"(1) not less than 10 percent shall be available only for carrying out part II of this subtitle;

"(2) not less than 10 percent shall be available only for carrying out part III of this subtitle;

"(3) not less than 10 percent shall be available only for carrying out part IV of this subtitle; and

"(4) not less than 10 percent shall be available only for carrying out part V of this subtitle.";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

<< 42 USCA § 11403d >>

(b) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 455 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403d) is amended by adding at the end the following new subsection:

"(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing assisted under this subtitle or services for such housing. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

<< 42 USCA § 11403e >>

(c) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 456 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403e) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) to the maximum extent practicable, to involve homeless individuals and families, through employment volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this subtitle and in providing services required under this subtitle.".

(d) REDESIGNATION AND AMENDMENT OF PART II PROVISIONS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) PART II HEADING.—By amending the heading for part II to read as follows:

<< 42 USCA Ch. 119 >>

"PART II—TENANT–BASED RENTAL ASSISTANCE"

<< 42 USCA §§ 11405, 11405a, 11405b, 11405c, 11406, 11406a, 11406b, 11406c >>

(2) PARTS II AND IV.—By striking parts III and IV.

<< 42 USCA § 11404 >>

(3) PURPOSE.—By striking section 461 and inserting the following new section:

"SEC. 471. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide tenant-based rental housing assistance for eligible persons in accordance with this part.".

<< 42 USCA § 11404a >>

(4) HOUSING ASSISTANCE.—By redesignating section 462 as section 472 and amending such section by striking "Where" and inserting the following: "An eligible person on behalf of whom assistance is provided under this part shall select the unit in which such person will live using rental assistance under this part; except that where".

<< 42 USCA § 11404b >>

(5) AMOUNT OF ASSISTANCE.—By redesignating section 463 as section 473 and amending such section by striking the last sentence.

(e) TRANSFER, REDESIGNATION, AND AMENDMENT OF GENERAL PROVISIONS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

<< 42 USCA § 11403f >>

(1) TERMINATION OF ASSISTANCE.—By redesignating section 457 as section 461.

<< 42 USCA § 11403g >>

(2) DEFINITIONS.—By redesignating section 458 as section 462 and amending such section—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) The term 'applicant' means a State, unit of general local government, Indian tribe, or public housing agency."; and

(B) in paragraph (5), by inserting before the period at the end ", and includes community mental health centers established as public nonprofit organizations".

<< 42 USCA § 11403h >>

(3) AUTHORIZATION OF APPROPRIATIONS.—By redesignating section 459 (as amended by subsection (a) of this section) as section 463.

<< 42 USCA § 11404c >>

<< 42 USCA § 11403e–1 >>

(4) HOUSING STANDARDS AND RENT REASONABLENESS.—By redesignating section 464 as section 457, transferring and inserting such section after section 456, and amending subsection (a)(1) of such section by striking "(or if no such agency exists in the applicable area, an entity selected by the Secretary)".

<< 42 USCA §§ 11404d, 11404e >>

<< 42 USCA §§ 11403e–2, 11403e–3 >>

(5) TENANT RENT AND ADMINISTRATIVE FEES.—By transferring and inserting sections 465 and 466 after section 457 (as so redesignated by paragraph (4) of this subsection) and redesignating such sections as sections 458 and 459, respectively.

<< 42 USCA § 11403e–4 >>

(6) OCCUPANCY.—By inserting after section 459 (as so redesignated by paragraph (5) of this subsection) the following new section:

"SEC. 460. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this subtitle shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit assisted under this subtitle before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.".

(f) PROJECT– AND SPONSOR–BASED RENTAL ASSISTANCE AND SINGLE ROOM OCCUPANCY DWELLINGS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended by inserting at the end the following new parts:

<< 42 USCA Ch. 119 >>

"PART III—PROJECT–BASED RENTAL ASSISTANCE

<< 42 USCA § 11405 >>

"SEC. 476. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide project-based rental housing assistance for eligible persons in accordance with this part.

<< 42 USCA § 11405a >>

"SEC. 477. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

<< 42 USCA § 11405b >>

"SEC. 478. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—Each contract with a recipient for assistance under this part shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5–year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least $3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

<< 42 USCA Ch. 119 >>

"PART IV—SPONSOR–BASED RENTAL ASSISTANCE

<< 42 USCA § 11406 >>

"SEC. 481. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide sponsor-based rental assistance for eligible persons in accordance with this part.

<< 42 USCA § 11406a >>

"SEC. 482. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

<< 42 USCA § 11406b >>

"SEC. 483. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—The contract with a recipient of assistance under this part shall be for a term of 5 years.
"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

<< 42 USCA Ch. 119 >>

"PART V—SECTION 8 MODERATE REHABILITATION
ASSISTANCE FOR SINGLE–ROOM OCCUPANCY DWELLINGS

<< 42 USCA § 11407 >>

"SEC. 486. AUTHORITY.

"The Secretary may use amounts made available under section 463 in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by eligible persons in accordance with this part. Amounts available under section 463 may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

<< 42 USCA § 11407a >>

"SEC. 487. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into under this part shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

<< 42 USCA § 11407b >>

"SEC. 488. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 463 for use under this part shall—
"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10–year period;
"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and
"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part shall be given to homeless persons.".
(g) TECHNICAL AND CONFORMING AMENDMENTS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended—

<< 42 USCA Ch. 119 >>

(1) by striking the heading for part I and inserting the following new heading:

"PART I—GENERAL REQUIREMENTS";

<< 42 USCA § 11403a >>

(2) in section 452(a), by striking "and IV" and inserting "IV, and V"; and

<< 42 USCA § 11403c >>

(3) in section 454(b)—
(A) in paragraph (1), by striking "or IV" and inserting "IV, or V";
(B) in paragraph (8), by striking "or IV" and inserting "IV, or V";
(C) in paragraph (10)(A), by inserting ", or III" after "part II"; and
(D) in paragraph (11)—
(i) by striking "part III" and inserting "part V"; and
(ii) by striking "rehabilitation and".

SEC. 1407. FHA SINGLE FAMILY PROPERTY DISPOSITION.

(a) 30–DAY MARKETING PERIOD.—Except as provided in subsection (b), in carrying out the program for disposition of single family properties acquired by the Department of Housing and Urban Development for use by the homeless under subpart E of part 291 of title 24, Code of Federal Regulations, the Secretary of Housing and Urban Development may not make any eligible property available for lease under such program that has not been listed and made generally available for sale by the Secretary for a period of at least 30 days.

(b) EXCEPTION.—With respect to any area for which the Secretary determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing available for use under the program referred to in subsection (a) if eligible properties located in the area are made generally available for the 30–day period under subsection (a), the Secretary shall reserve for disposition under such program not more than 10 percent of the total number of eligible properties located in the area and shall not market such properties as provided under subsection (a). The Secretary shall consult with the unit of general local government for an area in determining which properties should be reserved for disposition under this subsection.

(c) STATE AND LOCAL TAXES.—

(1) REQUIREMENT TO PROVIDE INFORMATION UPON REQUEST.—In carrying out the program referred to in subsection (a), the Secretary of Housing and Urban Development shall provide the information described in paragraph (2) to any lessee or applicant under the program who requests such information.

(2) CONTENT.—The information referred in paragraph (1) shall identify and describe any exemptions or reductions relating to payment of property taxes under State and local laws (for the jurisdictions for which the lessee or applicant requests such information) that may be applicable to lessees or applicants, or to properties leased, under such program.

(3) EXEMPTION FROM ESCROW REQUIREMENT.—To the extent any lessee of a property under the program referred to in subsection (a) is provided an exemption from any requirement to pay State or local taxes, or a reduction in the amount of any such taxes, the Secretary may not require the lessee to pay or deposit in any escrow account amounts for the payment of such taxes.

SEC. 1408. RURAL HOMELESSNESS GRANT PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

<< 42 USCA Ch. 119 >>

"Subtitle G—Rural Homeless Housing Assistance

<< 42 USCA § 11408 >>

"SEC. 491. RURAL HOMELESSNESS GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

"(1) assisting programs providing direct emergency assistance to homeless individuals and families;

"(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

"(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

"(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

"(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

"(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

"(D) transitional housing;

"(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

"(F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

"(i) outreach services to reach eligible recipients;

"(ii) case management;

"(iii) housing counseling;

"(iv) budgeting;

"(v) job training and placement;

"(vi) primary health care;

"(vii) mental health services;

"(viii) substance abuse treatment;

"(ix) child care;

"(x) transportation;

"(xi) emergency food and clothing;

"(xii) family violence services;

"(xiii) education services;

"(xiv) moving services;

"(xv) entitlement assistance; and

"(xvi) referrals to veterans services and legal services; and

"(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act and the Single Family Property Disposition Program established pursuant to section 204(g) of the National Housing Act.

"(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds appropriated under subsection (l)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

"(c) AWARD OF GRANTS.—

"(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 10,000.—

"(A) SET ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (l)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

"(B) PRIORITY WITHIN SET ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

"(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this Act.

"(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (l)(1), for the fiscal year.

"(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum—

"(1) a description of the target population and geographic area to be served;

"(2) a description of the types of assistance to be provided;

"(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

"(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

"(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

"(6) an agreement by the organization that, to the maximum extent practicable, the organization will involve homeless individuals and families through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities, Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974), and county and local governments.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of providing assistance under this section shall be 75 percent.

"(2) NON–FEDERAL SHARE.—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this section. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program to—

"(A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and

"(B) determine the types of assistance needed to address homelessness in rural areas.

"(2) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program conducted under paragraph (1), including recommendations

for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

"(i) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

"(k) DEFINITIONS.—

"For purposes of this section:

"(1) PROGRAM.—The term 'program' means the rural homelessness grant program established under this section.

"(2) RURAL AREA; RURAL COMMUNITY.—The terms 'rural area' and 'rural community' mean—

"(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

"(B) any area or community, respectively, that is—

"(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

"(ii) located in a rural census tract.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1993 and $31,260,000 for fiscal year 1994.

"(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.".

<< 42 USCA § 11361 NOTE >>

SEC. 1409. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a comprehensive review and evaluation of the effectiveness of each program under title IV of the Stewart B. McKinney Homeless Assistance Act. In conducting the review, the Secretary shall examine procedures of the Department in carrying out such programs, the procedures of recipients of assistance under such programs in carrying out such programs, and the effects and benefits of such programs; shall survey homeless individuals and families assisted under each program in various jurisdictions receiving assistance under each program; shall determine whether such programs are fulfilling the purposes for which they were established; and shall evaluate the usefulness and effectiveness of such programs.

(b) REPORT.—Not later than the expiration of the 2–year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the review and evaluation conducted under subsection (a).

<< 42 USCA §§ 11361 NOTE, 11362 nt, 11363 nt, 11364 nt, 11365 nt, 11366 nt, 11367 nt, 11368 nt, 11369 nt, 11371 nt, 11372 nt, 11373 nt, 11374 nt, 11375 nt, 11376 nt, 11381 nt, 11382 nt, 11391 nt, 11392 nt, 11393 nt, 11394 nt, 11395 nt, 11396 nt, 11397 nt, 11398 nt, 11399 nt, 11401 nt, 11401a nt, 11402a nt, 11402b nt, 11402c nt, 11403 nt, 11403a nt, 11403b nt, 11403c nt, 11404 nt, 11404a nt, 11404b nt, 11404c nt, 11405 nt >>

SEC. 1410. EXTENSION OF ORIGINAL MCKINNEY ACT HOUSING PROGRAMS.

The Cranston–Gonzalez National Affordable Housing Act is amended by striking sections 821 and 823 (42 U.S.C. 11361 note). The amendment made by such section 821 of such Act shall not take effect.

<< 42 USCA § 11411 NOTE >>

SEC. 1411. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.

(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1–year period beginning on the date of the enactment of this Act, a report regarding the consultations and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.

<< 42 USCA § 11301 NOTE >>

SEC. 1412. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

Section 825(a) of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 11301 note) is amended in the first sentence—

(1) by striking "Cranston–Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1992"; and

(2) by striking "July 1, 1992" and inserting "July 1, 1994".

SEC. 1413. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by striking the item relating to section 401 and inserting the following new item:

"Sec. 401. Housing affordability strategy.";

(2) by striking the item relating to the heading for subtitle C of title IV and all that follows through the item relating to section 484 and inserting the following new items:

"Subtitle C—Supportive Housing Program

"Sec. 421. Purpose.
"Sec. 422. Definitions.
"Sec. 423. Eligible activities.
"Sec. 424. Supportive housing.
"Sec. 425. Supportive services.
"Sec. 426. Program requirements.

"PART V—SECTION 8 MODERATE REHABILITATION
ASSISTANCE FOR SINGLE–ROOM OCCUPANCY DWELLINGS

"Sec. 486. Authority.
"Sec. 487. Fire and safety improvements.
"Sec. 488. Contract requirements.

"Subtitle G —Rural Homeless Housing Assistance

"Sec. 491. Rural homelessness grant program.
"Sec. 492. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing.";

(3) by striking the item relating to section 501 and inserting the following new item:

"Sec. 501. Use of unutilized and underutilized public buildings and real property to assist the homeless."

(4) by striking the items relating to sections 722 through 725 and inserting the following new items:

"Sec. 722. Grants for State and local activities for the education of homeless children and youth.
"Sec. 723. Local educational agency grants for the education of homeless children and youth.
"Sec. 724. National responsibilities.
"Sec. 725. Reports.
"Sec. 726. Definitions.";

(5) by inserting after the item relating to section 754 the following new items:

"Sec. 755. Evaluation.
"Sec. 756. Report by the Secretary.";

and

(6) by inserting after the item relating to section 762 the following new items:

"Subtitle F —Family Support Centers

"Sec. 771. Definitions.
"Sec. 772. General grants for the provision of services.
"Sec. 773. Training and retention.
"Sec. 774. Family case managers.
"Sec. 775. Gateway programs.
"Sec. 776. Evaluation.
"Sec. 777. Report.
"Sec. 778. Construction.
"Sec. 779. Authorization of appropriations.".

<< 42 USCA § 11408a >>

SEC. 1414. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

Subtitle G of the Title IV of the Stewart B. McKinney Homeless Assistance Act (as added by section 1408 of this Act) is amended by adding at the end the following new section:

"SEC. 592. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

"(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the 'Secretary') shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949—

"(1) to provide transitional housing; and

"(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

"(b) PRIORITY.—The priority uses of inventory property under this section shall not have a higher priority than—

"(1) the disposition of such property by sale to eligible families; or

"(2) the disposition of such property by transfer for use as rental housing by eligible families.

"(c) TRANSITIONAL HOUSING.—

"(1) LEASES AUTHORIZED.—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

"(2) RENTAL TO ELIGIBLE FAMILIES.—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 to purchase the housing from the Secretary.

"(d) LEASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a lease agreement with the organization or agency; and

"(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) LEASE TERMS.—A lease of inventory property under this section shall—

"(A) be for a period of not more than 10 years;

"(B) provide for the payment of $1 for the 10–year lease; and

"(C) provide the nonprofit organization or public agency—

"(i) the right to use the property for transitional housing; and

"(ii) the option to arrange for the sale of the property to an eligible purchaser.

"(e) PURCHASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a purchase agreement with the organization or agency; and

"(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) PURCHASE TERMS.—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

"(f) EMPLOYMENT OF HOMELESS INDIVIDUALS.—A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired under this section and in providing any services for occupants of properties assisted under this section.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing property under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section.

"(2) WAIVER.—The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph (1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) BUDGET COMPLIANCE.—The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts.".

Subtitle B —Interagency Council on the Homeless

<< 42 USCA § 11318 >>

SEC. 1421. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,500,000 for fiscal year 1993 and $1,563,000 for fiscal year 1994.".

<< 42 USCA § 11319 >>

SEC. 1422. EXTENSION.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

Subtitle C—Federal Emergency Management Food and Shelter Program

<< 42 USCA § 11352 >>

SEC. 1431. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1993 and $187,560,000 for fiscal year 1994.".

<< 42 USCA § 11346 >>

SEC. 1432. EMPLOYMENT AND PARTICIPATION OF HOMELESS INDIVIDUALS IN LOCAL PROGRAMS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle, to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing emergency food and shelter and in otherwise carrying out the local program; and

"(6) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the organization or governmental agency to the extent that such entity considers and makes policies and decisions regarding the local program of the organization or locality; except that such guidelines may grant waivers to applicants unable to meet such requirement if the organization or government agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.".

TITLE XV —ANNUNZIO–WYLIE ANTI–MONEY LAUNDERING ACT

<< 12 USCA § 1811 NOTE >>

SEC. 1500. SHORT TITLE.

This title may be cited as the "Annunzio–Wylie Anti–Money Laundering Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 1501. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.

<< 12 USCA § 1821 >>

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraph:

"(M) MONEY LAUNDERING OFFENSE.—The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

<< 12 USCA § 1786 >>

(b) INSURED CREDIT UNIONS.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code;".

<< 12 USCA §§ 1786 NOTE, 1821 nt >>

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 20, 1992.

SEC. 1502. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

<< 12 USCA § 93 >>

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

<< 12 USCA § 1464 >>

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSE.—

"(I) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(II) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the savings association knew of, were involved in, the commission of the money laundering offense of which the association was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

<< 12 USCA § 1772d >>

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TITLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall take into account the following factors:

"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(c) SUCCESSOR LIABILITY.—This section shall not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.".

SEC. 1503. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

<< 12 USCA § 1818 >>

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution is convicted of any criminal offense under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

"(D) The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with subsection (a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of this Act.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (w)" after "subparagraph (B)".

<< 12 USCA § 1786 >>

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall take into account the following factors:

"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.".

SEC. 1504. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

<< 12 USCA § 1818 >>

(a) FDIC–INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, and such violation was not inadvertent or unintentional;

"(ii) an officer or director of an insured depository institution has knowledge that an institution-affiliated party of the insured depository institution has violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(iii) an officer or director of an insured depository institution has committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of the agency's intention to remove such party from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the depository institution.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as

such judgment is not subject to further appellate review, the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the appropriate Federal banking agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon the depository institution, whereupon the institution-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such depository institution.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the agency from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

<< 12 USCA § 1786 >>

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the Board determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(ii) an officer or director of an insured credit union has knowledge that an institution-affiliated party of the insured credit union has violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(iii) an officer or director of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such officer or director from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the credit union.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Board from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

<< 18 USCA § 1956 >>

(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.".

(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDERING ENFORCEMENT ACTIVITIES.—

<< 31 USCA § 5318 >>

(1) Section 5318(a)(1) of title 31, United States Code, is amended—

(A) by striking "or the Postal Inspection Service"; and

(B) by inserting "United States" before "Postal Service".

<< 31 USCA § 5322 >>

(2) Section 5322(a) of title 31, United States Code, is amended by striking "imprisonment" and inserting "imprisoned for".

<< 12 USCA § 1829 >>

SEC. 1505. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

<< 31 USCA § 5319 >>

SEC. 1506. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

<< 12 USCA § 3105 >>

SEC. 1507. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (h) the following new subsection:

"(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary;

"(B) any State agency;

"(C) any State branch which is not an insured branch; or

"(D) any State commercial lending subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any criminal offense under section 1956 or 1957 of title 18, United States Code, or under section 5322 of title 31, United States Code.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 1511. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

<< 31 USCA § 5327 >>

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

"§ 5327. Identification of financial institutions

"(a) REGULATIONS REQUIRED.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

"(1) is a financial institution described in—

"(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or

"(B) any regulation under any such subparagraph; and

"(2) has any account with the depository institution.

"(b) REPORTS REQUIRED.—Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

"(c) REPORTING OFFENSES.—No person shall cause or attempt to cause any depository institution to fail to file a report required by this section or to file a report containing a material omission or misstatement of fact.

"(d) AVAILABILITY OF REPORTS.—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

"(e) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2).".

<< 31 USCA § 5321 >>

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

"(A) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.".

<< 31 USCA Ch. 53 >>

"(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

"5327. Identification of financial institutions.".

<< 31 USCA § 5327 NOTE >>

(d) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 5327 of title 31, United States Code (as added by subsection (a) of this section) shall take effect before January 1, 1994.

SEC. 1512. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

<< 18 USCA § 1960 >>

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.".

<< 18 USCA Ch. 95 >>

(b) CLERICAL AMENDMENT.—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

<< 18 USCA § 982 >>

(c) CRIMINAL FORFEITURE.—Section 982(a)(1) of title 18, United States Code, is amended by striking "or 1957" and inserting ",1957, or 1960".

<< 31 USCA § 5318 >>

SEC. 1513. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

<< 31 USCA § 5326 >>

SEC. 1514. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 1515. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.

<< 12 USCA § 1829b >>

(a) RECORDKEEPING REGULATIONS REQUIRED.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b) RECORDKEEPING REGULATIONS.—

"(1) IN GENERAL.—Where"; and

(2) by adding at the end the following new paragraphs:

"(2) DOMESTIC FUNDS TRANSFERS.—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

"(3) INTERNATIONAL FUNDS TRANSFERS.—

"(A) IN GENERAL.—The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments,

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) Availability of records.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in subsection (c), by striking "Each insured" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured";

(2) in subsection (e), by striking "Whenever any" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any"; and

(3) in subsection (f), by striking "In addition to" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to".

<< 12 USCA § 1829b NOTE >>

(c) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 21(b)(3) of the Federal Deposit Insurance Act (as added by subsection (a)(2) of this section) shall take effect before January 1, 1994.

<< 12 USCA § 3412 >>

SEC. 1516. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 1517. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI–MONEY LAUNDERING PROGRAMS.

<< 31 USCA § 5324 >>

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or regulations prescribed under such section 5325" after "section 5313(a)" each place such term appears.

<< 31 USCA § 5314 >>

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5314 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI–MONEY LAUNDERING PROGRAMS.—

"(1) IN GENERAL.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum

"(A) the development of internal policies, procedures, and controls,

"(B) the designation of a compliance officer,

"(C) an ongoing employee training program, and

"(D) an independent audit function to test programs.

"(2) REGULATIONS.—The Secretary may prescribe minimum standards for programs established under paragraph (1).".

<< 31 USCA § 5311 NOTE >>

SEC. 1518. ANTI–MONEY LAUNDERING TRAINING TEAM.

The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

<< 22 USCA § 2291 >>

SEC. 1519. INTERNATIONAL MONEY LAUNDERING REPORTS.

(a) UNITED STATES OBJECTIVES.—Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and cooperative with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and"

(b) ANNUAL REPORTS.—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries;

"(ii) which countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings;

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings; and

"(v) which countries identified pursuant to clause (i)—

"(I) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations, and

"(II) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States,

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering.

"(D) The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(E) As used in this paragraph, the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.".

(c) DEFINITION OF MAJOR DRUG–TRANSIT COUNTRY.—Section 481(i)(5) of that Act (22 U.S.C. 2291(i)(5)) is amended—

(1) by inserting "or" at the end of subparagraph (A);

(2) by striking out "or" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

Subtitle C—Money Laundering Enforcement Improvements

<< 28 USCA § 1355 >>

SEC. 1521. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.

"(d) Any court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action.".

SEC. 1522. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

<< 18 USCA § 984 >>

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31, United States Code.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property—

"(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

"(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

"(d)(1) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.

"(2) As used in this section, the term 'interbank account' means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.".

<< 18 USCA Ch. 46 >>

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 1523. PROCEDURE FOR SUBPOENAING BANK RECORDS.

<< 18 USCA § 986 >>

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

<< 18 USCA Ch. 46 >>

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

<< 18 USCA § 1956 >>

SEC. 1524. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 1525. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

<< 31 USCA § 5324 >>

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS.—" before "No person"; and

(2) by adding at the end the following:

"(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

<< 31 USCA § 5321 >>

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

<< 18 USCA § 981 >>

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

<< 31 USCA § 5317 >>

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 1526. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

<< 18 USCA § 1956 >>

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

<< 18 USCA § 1957 >>

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 1527. DEFINITION OF FINANCIAL TRANSACTION.

<< 18 USCA § 1956 >>

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—
(1) in paragraph (4)(A)—
(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";
(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and
(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and
(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

<< 18 USCA § 1957 >>

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

<< 18 USCA § 1510 >>

SEC. 1528. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

<< 28 USCA § 524 >>

SEC. 1529. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986" after "criminal drug laws of the United States".

<< 18 USCA § 1956 >>

SEC. 1530. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:
"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

<< 18 USCA § 1956 >>

SEC. 1531. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer."
(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

<< 12 USCA § 3420 >>

SEC. 1532. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of the Internal Revenue Code of 1986".

<< 18 USCA § 981 >>

SEC. 1533. ELIMINATION OF RESTRICTION ON DISPOSAL OF FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

<< 18 USCA § 1956 >>

SEC. 1534. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—
(1) by striking "or" before "section 16";
(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and
(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 1535. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

<< 31 USCA § 5324 >>

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears; and

<< 31 USCA § 5321 >>

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

<< 12 USCA § 1829b >>

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended—

<< 12 USCA § 1955 >>

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

<< 12 USCA § 1957 >>

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

<< 18 USCA § 1956 >>

SEC. 1536. EXPANSION OF MONEY LAUNDERING LAW TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking "involving the manufacture" and inserting the following: "involving—

"(i) the manufacture"; and

(2) by adding at the end the following:

"(ii) kidnaping, robbery, or extortion; or

"(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978;".

Subtitle D—Reports and Miscellaneous

SEC. 1541. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act of 1978 by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act. The study shall also include analysis of the effect of allowing nondepositor licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180–day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

<< 12 USCA § 1831m–1 >>

SEC. 1542. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall, unless otherwise prohibited by law, disclose to the appropriate Federal banking agency any information that the Attorney General, the Secretary of the Treasury, or such agency head believes raises significant concerns regarding the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall disclose to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury, shall disclose the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATORS, INFORMANTS, AND WITNESSES.—If the Attorney General, the Secretary of the Treasury or their respective designees determines that the disclosure of information pursuant to paragraph (1) may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to Government employees, informants, witnesses or their respective families, or may disclose sensitive investigative techniques and methods, the Attorney General or the Secretary of the Treasury shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation, litigation, or prosecution, threatening serious bodily injury or death to Government employees, informants, or witnesses or their respective families, or disclosing sensitive investigation techniques and methods; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF DISCLOSURE REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a disclosure report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information disclosed, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH DISCLOSURE REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that made the disclosure regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information disclosed.

(c) EFFECT ON AGENCIES.—This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

(e) REPORT.—The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B).

<< 18 USCA § 6001 >>

SEC. 1543. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

<< 12 USCA § 1821 >>

SEC. 1544. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:
"(t) AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.—
"(1) IN GENERAL.—A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—
"(A) any other covered agency, in any capacity; or
"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).
"(2) DEFINITIONS.—For purposes of this subsection:
"(A) COVERED AGENCY.—The term 'covered agency' means any of the following:
"(i) Any appropriate Federal banking agency.
"(ii) The Resolution Trust Corporation.
"(iii) The Farm Credit Administration.
"(iv) The Farm Credit System Insurance Corporation.
"(v) The National Credit Union Administration.
"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.
"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.".

Subtitle E —Counterfeit Deterrence

<< 18 USCA § 471 NOTE >>

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

<< 18 USCA § 474 >>

SEC. 1552. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—
(1) by inserting "(a)" before "Whoever" the first time it appears;
(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";
(3) by striking the seventh undesignated paragraph;
(4) by amending the last undesignated paragraph to read as follows:

"Is guilty of a class C felony."; and
(5) by adding at the end thereof the following:
"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 1553. DETERRENTS TO COUNTERFEITING.

<< 18 USCA § 474A >>

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

<< 18 USCA Ch. 25 >>

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

<< 18 USCA § 504 >>

SEC. 1554. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1)—

(A) by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums)."; and

(B) by adding at the end the following new sentence:

"The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.".

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

Subtitle F —Miscellaneous Provisions

SEC. 1561. CIVIL MONEY PENALTIES.

<< 31 USCA § 5321 >>

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

"(6) NEGLIGENCE.—

"(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

"(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution.".

<< 31 USCA § 5321 NOTE >>

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

<< 31 USCA § 5326 >>

SEC. 1562. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection:

"(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—

"(1) IN GENERAL.—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

"(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.

"(2) REPORTABLE TRANSACTION DEFINED.—For purposes of this subsection, the term 'reportable transaction' means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.".

SEC. 1563. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.

<< 31 USCA § 5328 >>

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 1511(a) of this title) the following new section:

"§ 5328. Whistleblower protections

"(a) PROHIBITION AGAINST DISCRIMINATION.—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial institution or any director, officer, or employee of the financial institution.

"(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2–year period beginning on the date of such discharge or discrimination.

"(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

"(e) COORDINATION WITH OTHER PROVISIONS OF LAW.—This section shall not apply with respect to any financial institution which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991).".

<< 31 USCA Ch. 53 >>

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 1511(c) of this Act) the following new item:
"5328. Whistleblower protections.".

<< 31 USCA § 5311 NOTE >>

SEC. 1564. ADVISORY GROUP ON REPORTING REQUIREMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

(b) PURPOSES.—The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

<< 31 USCA § 5311 NOTE >>

SEC. 1565. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as "Fincen") established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) REPORT TO CONGRESS.—Before the end of the 1–year period, beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

TITLE XVI—TECHNICAL CORRECTIONS OF BANKING LAWS

Subtitle A—Federal Deposit Insurance Corporation Improvement Act

SEC. 1601. TABLE OF CONTENTS.

Section 1 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

<< 12 USCA § 1811 NOTE >>

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Deposit Insurance Corporation Improvement Act of 1991'.

"(b) TABLE OF CONTENTS.—

SEC. 1602. TRANSFER AND REDESIGNATION OF SECTIONS WITH DUPLICATE SECTION NUMBERS.

<< 12 USCA §§ 1831p, 1831s >>

<< 12 USCA §§ 1831r–1, 1831p–1 >>

(a) DUPLICATE SECTION 39.—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to notice of branch closures and designated as section 39) is hereby—

(1) transferred and inserted after section 41 of the Federal Deposit Insurance Act (as added by section 312 of the Federal Deposit Insurance Corporation Improvement Act of 1991); and

(2) redesignated as section 42.

<< 12 USCA § 1831t >>

(b) DUPLICATE SECTION 40.—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to depository institutions lacking Federal deposit insurance and designated as section 40) is hereby—

(1) transferred and inserted after section 42 of the Federal Deposit Insurance Act (as transferred and redesignated by subsection (a) of this section); and

(2) redesignated as section 43.

SEC. 1603. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

<< 12 USCA § 1817 >>

(1) The 1st sentence of section 7(b)(1)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)(iii)) (as amended by section 104(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting "rate" before the period.

<< 12 USCA § 1824 >>

(2) Section 14(d)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(2)(D)) (as amended by section 105 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Member" and inserting "member".

<< 12 USCA § 1817 >>

<< 12 USCA § 1817 NOTE >>

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(a)) is amended—

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(b) AMENDMENTS RELATING TO SUBTITLE B.—

<< 12 USCA § 1820 >>

(1) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) (as added by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (5), by inserting "or the Resolution Trust Corporation" after "the Corporation" each place such term appears;

(B) in paragraph (5)(B), by inserting a comma after "bank"; and

(C) by striking paragraph (6).

(2) Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1992 is amended—

<< 12 USCA § 1831m NOTE >>

(A) by redesignating subsection (b) as subsection (c); and

<< 12 USCA § 1813 >>

(B) by inserting after subsection (a) the following new subsection:

"(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

'(r) STATE BANK SUPERVISOR.—

'(1) IN GENERAL.—The term "State bank supervisor" means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

'(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.' ".

<< 12 USCA § 1831m >>

(3) Section 36 of the Federal Deposit Insurance Act (as added by section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (b)(2)(A)(iii), by striking "Corporation or" and inserting "Corporation and";

(B) in subsection (g)(3)(A)(i), by striking "an appropriate" and inserting "any appropriate"; and

(C) in subsection (g)(5), by inserting "and each appropriate Federal banking agency" after "Corporation" each place such term appears.

<< 12 USCA § 1820 >>

(4) Section 113(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "111(a)(1)" and inserting "111(a)".

<< 12 USCA § 482 >>

(5) The 1st sentence of the 4th undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) (as amended by section 114 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "duties" and inserting "office".

<< 12 USCA § 1814 >>

(6) Section 115(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "Section" before "4(b)".

<< 12 USCA § 1817 NOTE >>

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by redesignating subsection (d) as subsection (c).

(d) AMENDMENTS RELATING TO SUBTITLE D.—

<< 12 USCA § 1831***o*** >>

(1) Section 38 of the Federal Deposit Insurance Act (as added by section 131(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (e)(2)(D)(i), by striking "and" where such term appears after the semicolon;

(B) in subsection (f)(6), by striking "functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956)" and insert "appropriate regulator";

(C) in subsection (g)(1)(B), by striking "capitalized," and inserting "capitalized (but not well capitalized),"; and

(D) in the heading of subsection (f)(6), by striking "FUNCTIONAL" and inserting "OTHER".

<< 12 USCA § 1818 >>

(2) Section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "the 1st and 2d place such term appears" before the semicolon.

(3) Section 8(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(1)) (as amended by section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) by inserting "or 39" after "38" each place such term appears; and

(B) by striking "order under this section, or to review" and inserting "order under any such section, or to review".

(4) Section 8(i)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(A)(ii)) (as amended by section 131(c)(2)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "subsection (b)," and all that follows through the semicolon and inserting "subsection (b), (c), (e), (g), or (s) or any final order under section 38 or 39;".

<< 12 USCA § 1813 >>

(5) Section 131(c)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "adding at the end" and inserting "inserting after subsection (x)".

<< 12 USCA § 191 >>

(6) Section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Section 1 of the Act of June 30, 1876" and inserting "The 1st section of the Act entitled 'An Act authorizing the appointment of receivers of national banking associations, and for other purposes.' and approved June 30, 1876".

(7) The Act entitled "An Act authorizing the appointment of receivers of national banking associations, and for other purposes." and approved June 30, 1876 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

<< 12 USCA § 191 >>

<< 12 USCA § 191 NOTE >>

(A) by redesignating section 1 as section 2 and by inserting after the enacting clause the following new section:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Bank Receivership Act'."; and

<< 12 USCA § 191 >>

(B) in section 2 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and redesignated by subparagraph (A) of this paragraph), by striking "appoint the Federal Deposit Insurance Corporation as receiver for any national banking association" and inserting "appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act))".

<< 12 USCA § 1464 >>

<< 12 USCA § 1464 NOTE >>

(8) Effective on the effective date of the amendment made by section 133(d)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) (as amended by such section 133(d)(1)) is amended by inserting a period at the end.

<< 12 USCA § 248 >>

(9) The paragraph designated as "(p)" of section 11 of the Federal Reserve Act (12 U.S.C. 248) (as added by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1992) is hereby redesignated as paragraph (o).

(10) The heading of subtitle D of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"Subtitle D—Prompt Corrective Action".

(11) The heading of section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"SEC. 131. PROMPT CORRECTIVE ACTION.".

(12) The heading of section 133 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "REGULATORY" and inserting "CORRECTIVE".

(e) AMENDMENTS RELATING TO SUBTITLE E.—

<< 12 USCA § 1821 >>

(1) Section 11(d)(5)(D)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)(iii)(I)) (as amended by section 141(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "institution described in paragraph (3)(A)" and inserting "insured depository institution".

<< 12 USCA § 248 NOTE >>

(2) The amendment made by section 142(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (adding a paragraph at the end of section 11 of the Federal Reserve Act) shall be considered to have been executed before the amendment made by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

<< 12 USCA § 1831t NOTE >>

(f) AMENDMENTS RELATING TO SUBTITLE F.—

(1) Section 151(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) in paragraph (1), by striking "section 40(a)(1)" and inserting "section 43(a)(1)"; and

(B) in paragraph (3)—

(i) by striking " 'deposit',";

(ii) by striking "and";

(iii) by inserting ", and 'private deposit insurer' " before "have the same meaning"; and

(iv) by striking "section 40(f)" and inserting "section 43(f)".

(2) The heading of subtitle F of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"Subtitle F —Depository Institutions Lacking Federal Deposit Insurance".

SEC. 1604. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

<< 12 USCA § 3105 >>

(1) Section 7(e)(6) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary" and inserting "against which—

"(i) the Board has issued an order under paragraph (1); or

"(ii) the Comptroller of the Currency has issued an order under section 4(i),

or a refusal by such office or subsidiary"; and

(B) in subparagraph (B), by striking "order issued under paragraph (1)" and inserting "order referred to in subparagraph (A)".

(2) Section 7(e)(7) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "publc" and inserting "public".

<< 12 USCA § 1820 >>

(3) Section 10(b)(6)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(6)(A)) (as amended by section 203(c)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "paragraph (2)" and all that follows through the semicolon and inserting "paragraph (2), (3), (4), or (5);"

<< 12 USCA § 3107 >>

(4) Section 10(b) of the International Banking Act of 1978 (12 U.S.C. 3107(b)) (as amended by section 204 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "paragraphs (1), (2), and (3) of section 7(d)" and inserting "section 7(e)".

<< 15 USCA § 1607 >>

(5) Section 108(a)(1)(C) of the Truth in Lending Act (15 U.S.C. 1607(a)(1)(C)) (as amended by section 212(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

<< 15 USCA § 1681s >>

(6) Section 621(b)(1)(C) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(C)) (as amended by section 212(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

<< 15 USCA § 1691c >>

(7) Section 704(a)(1)(C) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

<< 15 USCA § 1692*l* >>

(8) Section 814(b)(1)(C) of the Fair Debt Collection Practices Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

<< 15 USCA § 57a >>

(9) Section 18(f)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)(A)) (as amended by section 212(g)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "divisions" and inserting "division".

<< 12 USCA § 3104 >>

(10) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104), as in effect on the day before the effective date of the amendment made by section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991, is amended by striking subsection (c).

(11) Section 6(c) of the International Banking Act of 1978 (as added by section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (1)—

(i) by inserting "domestic retail" before "deposit accounts"; and

(ii) by striking "$100,000," and inserting "$100,000 and requiring deposit insurance protection,"; and

(B) in paragraph (2)—

(i) by striking "Deposit" and inserting "Domestic retail deposit"; and

(ii) by inserting "that require deposit insurance protection" after "$100,000".

<< 12 USCA § 3105 >>

(12) Section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting closing quotation marks and a 2d period at the end.

(13) Section 7(j) of the International Banking Act of 1978 (as added by section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Supervisory committee" and inserting "Supervisory Committee".

<< 12 USCA § 3102 NOTE >>

(14) Section 215(a)(9) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "United States Banks" and inserting "banks chartered in the United States".

<< 12 USCA § 2808 >>

(15) Section 224 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 1975" after "Disclosure Act".

(b) AMENDMENTS RELATING TO SUBTITLE C.—

<< 12 USCA §§ 1817, 1834 >>

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by striking "(9), and (10)" and inserting "and (8)"; and

(B) by striking "(10), and (11)" and inserting "and (9)".

<< 12 USCA § 1834a >>

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 235" where such term appears in paragraphs (3) and (5) and inserting "section 234".

<< 12 USCA § 1817 >>

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 235" and inserting "section 234".

(c) AMENDMENTS RELATING TO SUBTITLE D.—

<< 12 USCA § 1831q NOTE >>

(1) Section 241(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 42" and inserting "section 40".

<< 12 USCA § 1821 >>

(2) Subparagraphs (B) and (E) of section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) (as amended by section 241(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) are each amended by striking "section 42" and inserting "section 40".

<< 12 USCA § 1701q >>

(3) Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)) (as amended by section 241(c)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 42" and inserting "section 40".

<< 12 USCA § 1790b >>

(d) AMENDMENTS RELATING TO SUBTITLE E.—Section 213(a)(2) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) (as amended by section 251(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (A), by inserting "or" after "credit union"; and

(2) in subparagraph (B), by striking "or employee" and all that follows through the semicolon and inserting "committee member, or employee of any credit union;".

(e) AMENDMENTS RELATING TO SUBTITLE F.—

<< 12 USCA § 4305 >>

(1) Section 266(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "on or with any regularly scheduled mailing posted or delivered within 180 days after publication" and inserting "on or with the first regularly scheduled mailing sent after the end of the 6–month period beginning on the date of publication".

(2) Subtitle F of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Act" and inserting "subtitle"—

<< 12 USCA § 4304 >>

(A) each place such term appears in section 265;

<< 12 USCA § 4306 >>

(B) in section 267(a);
(C) the 1st place such term appears in section 267(c);

<< 12 USCA § 4308 >>

(D) each place such term appears in section 269(a)(1);
(E) each place such term appears in section 269(a)(3);
(F) the 1st place such term appears in section 269(a)(4);
(G) in section 269(b)(1);
(H) each place such term appears in section 269(b)(2);

<< 12 USCA § 4309 >>

(I) the 1st place such term appears in section 270(a);
(J) in section 270(b)(2);
(K) each place such term appears in section 270(c);

<< 12 USCA § 4310 >>

(L) each place such term appears in section 271(a);
(M) in paragraphs (1) and (2) of section 271(c);
(N) in subsections (d), (g), (h) of section 271;
(O) in paragraphs (1) and (2) of section 271(i):

<< 12 USCA § 4311 >>

(P) the 1st place such term appears in section 272(a);
(Q) in section 272(b);

<< 12 USCA § 4312 >>

(R) in section 273; and

<< 12 USCA § 4313 >>

(S) in the provision of section 274 which precedes paragraph (1) of such section.

<< 12 USCA § 4309 >>

(3) Section 270(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "this Act" and inserting "this subtitle".

(4) The heading of paragraph (1) of section 270(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "ACT" and inserting "SUBTITLE".

SEC. 1605. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

<< 12 USCA § 1831f >>

(1) Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) (as amended by section 301(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (a), by striking "A insured" and inserting "An insured"; and

(B) in subsection (c), by striking "capitalized," and inserting "capitalized (but not well capitalized),".

<< 12 USCA § 1817 >>

(2) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (D), by striking the comma after "members"; and

(B) by adding at the end the following new subparagraph:

"(H) BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act.".

<< 12 USCA § 1834 >>

<< 12 USCA § 1834 NOTE >>

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)(1)) by striking "7(b)(10)" and inserting "7(b)(2)(H)".

<< 12 USCA § 1820 >>

(4) The subsection which was added to section 10 of the Federal Deposit Insurance Act by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (f) is hereby redesignated as subsection (g).

(5) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

<< 12 USCA §§ 1817, 1818 >>

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

<< 12 USCA § 1815 >>

(B) by striking paragraph (1) and inserting the following new paragraphs:

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.' ".

<< 12 USCA § 1817 >>

<< 12 USCA § 1817 NOTE >>

(6) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph ((5)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as transferred and so redesignated by section 1603(a)(3) of this title) the following new paragraph:

"(7) COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.".

<< 12 USCA § 1834a >>

<< 12 USCA § 1834a NOTE >>

(7) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (5)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking "7(d)(4)" and inserting "7(b)(7)";

(B) in subsection (a)(3), by striking "7(d)(4)" and inserting "7(b)(7)"; and

(C) in subsection (e)(2), by striking "made for purposes of the notification required under section 7(d)(1)(B)" and inserting "of the semiannual assessment to which such credit is applicable".

<< 12 USCA § 1831a >>

(8) Section 24(e)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a) (as added by section 303(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

"(B) meets applicable consumer disclosure requirements with respect to such insurance.".

<< 12 USCA § 1828 >>

(9) The subsection of section 18 of the Federal Deposit Insurance Act which was added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (o) (relating to periodic review of capital standards) is hereby redesignated as subsection (p).

<< 12 USCA § 375b >>

(10) Section 22(h)(6)(B)(i) of the Federal Reserve Act (12 U.S.C. 375b) (as amended by section 306(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "and" after the semicolon and inserting "or".

<< 12 USCA § 1818 >>

(11) Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) (as added by section 307 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (2)(B), by inserting "or institution-affiliated party" after "institution" each place such term appears;

(B) in paragraph (2)(C), by striking "institution's" the 1st place such term appears; and

(C) in paragraph (5), by inserting "or institution-affiliated party" after "depository institution".

(b) AMENDMENTS RELATING TO SUBTITLE B.—

<< 12 USCA § 1817 >>

(1) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking subparagraph (D), as added by section 311(a)(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

<< 12 USCA § 1817 NOTE >>

(2) Effective on the effective date of the amendment made by section 302(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(b)) is amended—

<< 12 USCA § 1817 >>

(A) by adding at the end, the paragraph added to such section 7(c) (as in effect on the day before the effective date of such amendment) by section 313(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991;

(B) by redesignating such paragraph as paragraph (4); and

(C) in paragraph (4) (as so redesignated by subparagraph (B) of this paragraph), by striking "paragraph (1) or (2)" each place such term appears and inserting "paragraph (1)".

<< 12 USCA § 1782 >>

(3) Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) (as amended by section 313(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (C)—

(i) by striking "insured depository institution" and inserting "insured credit union";

(ii) by striking "or" after "subsection (b)(1)";

(iii) by striking "Corporation" and inserting "Board"; and

(iv) by striking "assets of the institution" and inserting "assets of the credit union";

(B) in subparagraph (D), by striking "Corporation" and inserting "Board"; and

(C) in subparagraph (E)—

(i) by striking "insured depository institution" and inserting "insured credit union"; and

(ii) by striking "if the institution" and inserting "if the credit union".

(c) AMENDMENT TO THE HEADING OF TITLE III.—The heading of title III of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"TITLE III —FEDERAL DEPOSIT INSURANCE REFORM".

SEC. 1606. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

<< 12 USCA § 4402 >>

(a) AMENDMENT RELATING TO SUBTITLE A.—Section 402(14)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal commodities law" and inserting "Federal law".

<< 12 USCA § 3412 >>

(b) AMENDMENT RELATING TO SUBTITLE B.—Section 1112(f)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)(2)) (as amended by section 411(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) by inserting a comma before "for civil actions under section 951"; and

(2) by inserting a comma after "United States Code".

<< 12 USCA § 1821 >>

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 11(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(4)(A)) (as amended by section 416 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "determinations" and inserting "determination".

(d) AMENDMENT RELATING TO SUBTITLE D.—The heading for section 422 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "BOARD" and inserting "ADVISORY COMMITTEE".

(e) AMENDMENT RELATING TO SUBTITLE F.—Section 431(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "(hereafter in this subsection referred to as the 'Secretary')" after "Secretary of the Treasury".

(f) AMENDMENTS RELATING TO SUBTITLE G.—

<< 12 USCA § 1464 >>

(1) Section 5(c)(2)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended to read as follows:

"(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.".

(2) Section 5(c)(2)(C) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(C)) is amended by striking the comma after "including".

(3) The last sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) (as amended by section 441(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting before the period the following: ", except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party".

<< 12 USCA § 1467a >>

(4) Section 437 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by striking "Section 10(m)(1)(B)" and inserting "(a) IN GENERAL.—Section 10(m)(1)(B)"; and

(B) by adding at the end the following new subsection:

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—

"(1) Section 10(m)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467(m)(1)(A)) is amended by striking '70 percent' and inserting '65 percent'.

"(2) The first sentence of section 10(m)(3)(D) of the Home Owners' Loan Act (12 U.S.C. 1467(m)(3)(D)) is amended by striking 'for the preceding 2–year period' and inserting 'on a monthly average basis in 9 out of the preceding 12 months'.".

(g) AMENDMENTS RELATING TO SUBTITLE I.—

<< 12 USCA § 1821 NOTE >>

(1) Section 451(b)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "11(i)" and inserting "3(i)(2)".

<< 12 USCA § 1813 >>

(2) Section 3(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)(2)) is amended by striking "11(i)" and inserting "11(n)".

(h) AMENDMENTS RELATING TO SUBTITLE K.—

<< 12 USCA § 1843 >>

(1) Section 461 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 1956" after "Bank Holding Company Act".

(2) The heading of subtitle K of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"Subtitle K —Acquisition of Insolvent Savings Associations".

(i) AMENDMENTS RELATING TO SUBTITLE M.—

<< 12 USCA § 1817 >>

(1) Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating the paragraph (9) which was added to such section by section 474 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as paragraph (10).

<< 12 USCA § 1828 NOTE >>

(2) Section 475(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"(c) EFFECTIVE DATE.—This section shall apply after the end of the 60–day period beginning on the date of the enactment of this Act.".

<< 12 USCA § 251 >>

(3) Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal Reserve Board" each place such term appears and inserting "Board of Governors of the Federal Reserve System".

SEC. 1607. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

<< 12 USCA § 1815 >>

(a) AMENDMENT RELATING TO SECTION 501.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) (as amended by section 501(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new subparagraph:

"(K) BOARD DEFINED.—For purposes of this paragraph, the term 'Board' (other than when such term appears in connection with a reference to the Board of Directors) means the Board of Governors of the Federal Reserve System.".

<< 12 USCA § 1467a >>

(b) AMENDMENT RELATING TO SECTION 502.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by redesignating subsection (t) (as added by section 502(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (s).

<< 12 USCA § 1422a >>

SEC. 1608. FEDERAL HOUSING FINANCE BOARD PRACTICE REQUIRED TO CONFORM TO CONGRESSIONAL INTENT AND EXISTING LAW.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) CLARIFICATION OF STATUS.—

"(i) IN GENERAL.—The directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis after December 31, 1993.

"(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as implying that any other position may be filled or held on a less than full-time basis.".

<< 12 USCA § 191 NOTE >>

SEC. 1609. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or any other provision of this subtitle, the amendments made by this subtitle to the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act, and any other law shall take effect as if such amendments had been included in the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

(b) EFFECTIVE DATE OF CERTAIN AMENDMENTS.—In the case of any amendment made by this subtitle to any provision of law added or amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 effective after December 19, 1992, the amendment made by this subtitle shall take effect on the effective date of the amendment made by the Federal Deposit Insurance Corporation Improvement Act of 1991.

Subtitle B —Resolution Trust Corporation

SEC. 1611. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

<< 12 USCA § 1441a >>

(a) AMENDMENT RELATING TO SECTION 101.—Section 21A(i)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(3)) is amended by inserting a comma after "necessary" and after "billion".

(b) AMENDMENTS RELATING TO SECTION 102.—

<< 12 USCA § 1821 >>

(1) Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "section 5(d)(2)(C)" and inserting "subparagraph (C) or (F) of section 5(d)(2)".

<< 12 USCA § 1821 >>

<< 12 USCA § 1821 NOTE >>

(2) Effective 1 year after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 11(c)(6)(B) of the Federal Deposit Insurance Act (as amended by paragraph (1) of this subsection) is amended by striking "subparagraph (C) or (F) of section 5(d)(2)" and inserting "subparagraph (A) or (C) of section 5(d)(2)".

<< 12 USCA § 1441 >>

(c) AMENDMENT RELATING TO SECTION 104.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended by striking "Thrift Depositor Protection Refinance" and inserting "Refinancing, Restructuring, and Improvement".

(d) AMENDMENTS RELATING TO SECTION 106.—

<< 12 USCA § 1441a >>

(1) Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) (as amended by section 106(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "quarter ending on the last day of the month ending before the month in which such report is required to be submitted" and inserting "preceding calendar quarter".

(2) Section 21A(k)(10) of the Federal Home Loan Bank Board (12 U.S.C. 1441a(k)(10)) (as added by section 106(c) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(3) Section 21A(k)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(11)) (as amended by section 106(d) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by inserting "Thrift Depositor Protection" before "Oversight Board"; and

(B) in subparagraph (B)—

(i) by striking "an employee" and inserting "employees"; and

(ii) by striking "Government" and inserting "General".

<< 12 USCA § 1441a NOTE >>

(4) Section 106(e)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "annual reports" and inserting "supplemental unaudited financial statements".

<< 12 USCA § 1441a >>

SEC. 1612. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

Section 21A(b)(8)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)(i)) is amended by striking "Thrift Depositor Protection Refinance" each place such term appears and inserting "Refinancing, Restructuring, and Improvement".

SEC. 1613. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 302.—

<< 12 USCA § 1441a >>

(1) Section 302 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking subsection (c).

(2) Section 21A(k)(6)(A)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(6)(A)(vii)) is amended by inserting "Thrift Depositor Protection" before "Oversight Board's".

(3) Section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(4) The heading for section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(5) The heading for paragraph (8) of subsection (n) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as such subsection has been redesignated by section 314(3) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(6) The heading for section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT BOARD".

<< 12 USCA § 1441b >>

(7) The headings for sections 21B(c)(8) and 21B(j)(2) of the Federal Home Loan Act (12 U.S.C. 1441b(c)(8) and 1441B(j)(2)) are each amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

<< 12 USCA § 1441a >>

(8) The heading for section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

<< 12 USCA § 1441b >>

(9) The heading for section 21B(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(k)(7)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

<< 12 USCA § 1441a >>

(b) AMENDMENTS RELATING TO SECTION 303.—

(1) Section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 is amended by striking the comma after "Corporation')".

(2) Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) (as amended by section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 and the amendment made by paragraph (1) of this subsection) is amended by striking the 2d period after "Act".

(c) AMENDMENTS RELATING TO SECTION 305.—

(1) Section 21A(a)(6)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)(C)) is amended by striking "paragraph (8) of this subsection" and all that follows through the period at the end and inserting "paragraph (8)".

(2) Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by redesignating paragraph (15) as paragraph (16) and inserting after paragraph (14) the following new paragraph:

"(15) REPORTS ON ANY MODIFICATION TO ANY STRATEGY, POLICY, OR GOAL.—If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such board shall submit, before the end of the 30–day period beginning on the date on which the board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds which the board determined justified the review and the reasons why the modification is necessary to satisfy any such ground.".

(d) AMENDMENTS RELATING TO SECTION 307.—

(1) Section 21A(a)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(10)) is amended—

(A) by striking "4" and inserting "6";

(B) by adding at the end the following new sentence: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of the board's open meetings."; and

(C) in the heading, by striking "QUARTERLY" and inserting "OPEN"

(2) Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended by striking the last sentence (as added by section 307(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991).

(e) AMENDMENT RELATING TO SECTION 311.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) (as amended by section 311 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "IN GENERAL.—" and all that follows through the 1st comma and inserting "IN GENERAL.—Except for the chief executive officer of the Corporation,".

(f) AMENDMENTS RELATING TO SECTION 314.—

(1) Section 21A(a)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)) (as amended by section 314(1)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "AUTHORITY.—IN GENERAL.—The Corporation", and inserting "AUTHORITY.—The Corporation".

(2) Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) (as amended by section 314(5) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "includes" and all that follows through "any officer or employee of the Federal Deposit" and inserting "includes any officer or employee of the Federal Deposit".

(g) AMENDMENT RELATING TO SECTION 316.—Section 21A(l)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)(B)) (as amended by section 316 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "for that party of the filing" and inserting "for that party or the filing".

(h) ADDITIONAL TECHNICAL CORRECTIONS.—

(1) Paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (G) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "(11)(A)(iv)" and inserting "(10)(A)(iv)"; and

(B) in subparagraph (I) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "through its Board of Directors".

(2) Paragraph (10) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "(10)" and inserting "(9)"; and

(B) in subparagraph (A)(i), by striking "(12)" and inserting "(11)".

(3) Paragraph (11)(E)(i) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(E)(i)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "its" and inserting "the chief executive officer's".

(4) Section 21A(c)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(7)) is amended by striking "(b)(11)(A)" and inserting "(b)(10)(A)".

(5) Section 21A(d)(1)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(1)(B)(ii)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(6) Section 21A(k)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(3)(B)) is amended by striking "subsection (b)(11)(B)" and inserting "subsection (b)(10)(B)".

SEC. 1614. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO INCORRECT DESIGNATIONS OF NEW SUBSECTIONS AND PARAGRAPHS.—

<< 12 USCA § 1441a >>

(1) Section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "after subsection (s) (as added by section 227 of this Act)" and inserting "after subsection (p) (as so redesignated by section 314(3) of this Act)".

(2) Section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "301" and inserting "401".

(3) Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 302" and inserting "section 402".

(4) Section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 303" and inserting "section 403".

(5) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(A) by redesignating subsection (t) (as added by section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (r);

(B) by redesignating subsection (u) (as added by section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (s);

(C) by redesignating subsection (v) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (t);

(D) by redesignating subsection (w) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (u); and

<< 12 USCA § 1441a >>

<< 12 USCA § 1441a NOTE >>

(E) effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, by transferring and inserting subsection (q) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) after subsection (p).

<< 12 USCA § 1441a NOTE >>

(6) For purposes of applying paragraph (13) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, shall be considered to have been executed before the redesignation of such paragraph by section 310 of such Act.

(7) Effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

<< 12 USCA § 1441a >>

(A) section 471 of such Act is amended by striking “Home Owners' Loan Act” and inserting “Federal Home Loan Bank Act”; and

(B) subsection (q) of section 21A of the Federal Home Loan Bank Act (as added by section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by subparagraph (A) of this paragraph) is hereby redesignated as subsection (v).

(b) OTHER TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY TITLE IV.—

(1) Subsection (t)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking “minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)” and inserting “the minority capital assistance program established under subsection (u)(1)”.

(2) Subsection (u)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking “established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)” and inserting “administered by the Corporation pursuant to the policy statement entitled the ‘Interim Statement of Policy Regarding Resolutions of Minority–Owned Depository Institutions' adopted by the Corporation on January 30, 1990”.

(3) Subsections (t)(3)(B) and (u)(5)(B) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by sections 403 and 404, respectively, of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) are each amended by striking “section 13(c)(8)” and inserting “section 13(f)(8)(B)”.

(4) Subsection (q) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by subsection (a)(5) of this section) is amended by inserting “Thrift Depositor Protection” before “Oversight Board” each place such term appears.

SEC. 1615. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 501.—

<< 12 USCA § 1441a NOTE >>

(1) For purposes of applying paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be considered to have been executed before the redesignation of subparagraph (K) of such paragraph by section 314(2)(B) of such Act and the redesignation of such paragraph by section 310 of such Act.

<< 12 USCA § 1441a >>

(2) Section 21A(c)(8)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)(ii)) (as added by section 501(a)(2)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "subchapter A" and inserting "subchapter B".

(b) AMENDMENT TO SECTION HEADING.—The heading for section 501 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended to read as follows:

"SEC. 501. CREDIT ENHANCEMENT.".

<< 12 USCA § 1441a >>

SEC. 1616. TECHNICAL CORRECTIONS RELATING TO TITLE VI OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 607.—Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) (as amended by section 607 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(1) in clause (i)(I), by striking "building property structure in which the units are located: *Provided,* That" and inserting "property in which the units are located; and";

(2) in clause (i)(II)—

(A) by striking "shall be made available for occupancy" the 1st time such term appears;

(B) by inserting "(including very low-income families taken into account for purposes of subclause (I))" after "very low-income families"; and

(C) by striking "building or structure" and inserting "property"; and

(3) in clause (ii)(II)—

(A) by striking "building property structure" each place such term appears and inserting "property"; and

(B) by inserting "(including very low-income families taken into account for purposes of subdivision (a) of this subclause)" after "very low-income families" where such term appears in subdivision (b) of such clause.

(b) REPEAL OF DUPLICATE PROVISION.—Title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking section 611.

SEC. 1617. REPEAL OF TITLE CONSISTING OF AMENDMENTS DUPLICATED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

<< 12 USCA §§ 3345, 3348 >>

(a) IN GENERAL.—Title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is hereby repealed.

<< 12 USCA § 3345 NOTE >>

(b) EFFECT OF REPEAL.—No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be deemed to have taken effect before the date of the enactment of this Act and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.

<< 12 USCA § 1441 NOTE >>

SEC. 1618. EFFECTIVE DATE.

Except as otherwise provided by a specific provision of this subtitle, the amendments made by this subtitle to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and the Federal Home Loan Bank Act shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 as of the date of the enactment of such Act.

Approved October 28, 1992.

PL 102–550, 1992 HR 5334